National Library of Canada
Bibliothèque nationale du Canada

Canadian Theses Service
Service des thèses canadiennes

Ottawa, Canada
K1A 0N4

NOTICE

The quality of this microform is heavily dependent upon the quality of the original thesis submitted for microfilming. Every effort has been made to ensure the highest quality of reproduction possible.

If pages are missing, contact the university which granted the degree.

Some pages may have indistinct print especially if the original pages were typed with a poor typewriter ribbon or if the university sent us an inferior photocopy.

Reproduction in full or in part of this microform is governed by the Canadian Copyright Act, R.S.C. 1970, c. C-30, and subsequent amendments.

AVIS

La qualité de cette microforme dépend grandement de la qualité de la thèse soumise au microfilmage. Nous avons tout fait pour assurer une qualité supérieure de reproduction.

S'il manque des pages, veuillez communiquer avec l'université qui a conféré le grade.

La qualité d'impression de certaines pages peut laisser à désirer, surtout si les pages originales ont été dactylographiées à l'aide d'un ruban usé ou si l'université nous a fait parvenir une photocopie de qualité inférieure.

La reproduction, même partielle, de cette microforme est soumise à la Loi canadienne sur le droit d'auteur, SRC 1970, c. C-30, et ses amendements subséquents.

NL-339 (r. 88/04) c

Canada

UNIVERSITY OF ALBERTA

TWO CONCEPTS OF RAWLS

A Developmental Reconstruction and Critique of the Scholarship of John Rawls

BY

JOSEPH AENEAS MacKENZIE

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES AND RESEARCH IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS

DEPARTMENT OF PHILOSOPHY

EDMONTON, ALBERTA

SPRING 1990

National Library of Canada
Bibliothèque nationale du Canada

Canadian Theses Service
Service des thèses canadiennes

Ottawa, Canada
K1A 0N4

The author has granted an irrevocable non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of his/her thesis by any means and in any form or format, making this thesis available to interested persons.

L'auteur a accordé une licence irrévocable et non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de sa thèse de quelque manière et sous quelque forme que ce soit pour mettre des exemplaires de cette thèse à la disposition des personnes intéressées.

The author retains ownership of the copyright in his/her thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without his/her permission.

L'auteur conserve la propriété du droit d'auteur qui protège sa thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

ISBN 0-315-60124-8

Canada

UNIVERSITY OF ALBERTA

RELEASE FORM

NAME OF AUTHOR: **JOSEPH AENEAS MacKENZIE**

TITLE OF THESIS: **TWO CONCEPTS OF RAWLS: A Developmental Reconstruction and Critique of the Scholarship of John Rawls**

DEGREE: **MASTER OF ARTS**

YEAR THIS DEGREE GRANTED: **1990**

PERMISSION IS HEREBY GRANTED TO THE UNIVERSITY OF ALBERTA LIBRARY TO REPRODUCE SINGLE COPIES OF THIS THESIS AND TO LEND OR SELL SUCH COPIES FOR PRIVATE, SCHOLARLY OR SCIENTIFIC RESEARCH PURPOSES ONLY.

THE AUTHOR RESERVES OTHER PUBLICATION RIGHTS, AND NEITHER THE THESIS NOR EXTENSIVE EXTRACTS FROM IT MAY BE PRINTED OR OTHERWISE REPRODUCED WITHOUT THE AUTHOR'S WRITTEN PERMISSION.

5343 46 Avenue,
Red Deer, Alberta, Canada,
T4N 3N3

Date: 25 April 1990

Here there is one thing we shall be the last to deny: he who knows these "good men" only as enemies knows only **evil enemies**, and the same men who are held so sternly in check **inter pares** by custom, respect, usage, gratitude, and even more by mutual suspicion and jealousy, and who on the other hand in their relations with one another show themselves so resourceful in consideration, self-control, delicacy, loyalty, pride, and friendship--once they go outside, where the strange, the **stranger** is found, they are not much better than uncaged beasts of prey.

--Friedrich Nietzshe,
On the Genealogy of Morals

UNIVERSITY OF ALBERTA

FACULTY OF GRADUATE STUDIES AND RESEARCH

THE UNDERSIGNED CERTIFY THEY HAVE READ, AND RECOMMEND TO THE FACULTY OF GRADUATE STUDIES AND RESEARCH FOR ACCEPTANCE, A THESIS ENTITLED "TWO CONCEPTS OF RAWLS: A DEVELOPMENTAL RECONSTRUCTION AND CRITIQUE OF THE SCHOLARSHIP OF JOHN RAWLS"

SUBMITTED BY JOSEPH AENEAS MacKENZIE

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS IN PHILOSOPHY.

Wes Cooper, supervisor

Bruce Hunter

Cameron Mackenzie

Tom Pocklington

Date: November 24, 1990

ABSTRACT

This thesis traces John Rawls' thoughts on the concept of justice by identifying three periods in its development, summarizing works representative of each, and reconstructing the basic thought underlying each period as a whole. The main concern throughout is with the statements of his first principle of justice. Chapter one deals with the period of 1951 to 1963, concentrating in particular on the formulation of Rawls' "general position" of social contracting, out of which arises an "ongoing" interpretation of it. The criticism of this period is centered on Rawls' assumptions about persons as group members. Chapter two covers 1967 to 1978 and reveals certain tendencies in Rawls' arguments which invoke "closed systems" analysis. The theoretical force of his "original position" is thereby put into question. Chapter three, 1980 to 1988, illustrates the senses in which Rawls' account of justice as fairness has become one restricted to normal citizens of Western democratic nation-states. Through comparisons with how his thoughts on the matter might otherwise have developed, the problems with his account as it now stands are brought forward. The conclusion to the thesis is that Rawls' conception of justice is an implausible one, given the social realities of living in a global political world.

ACKNOWLEDGEMENTS:

I would like to thank the members of my thesis committee for their helpful comments and their stamina in reading it. I am especially indebted to my supervisor, Wes Cooper, who gave me patient reassurance throughout the many stages of writing and compulsive redrafting that I would one day be able to put it on a shelf. His tolerance for my too often profound academic autism was equally appreciated. Finally, having entered the doctoral programme in Social and Political Thought at York University prior to completing the writing of this thesis, and having thereupon committed intellectual masochism, I would like to acknowledge my gratitude for being able to participate in an advanced seminar for faculty in the Toronto area researching "Rights to Membership in the State", chaired by Howard Adelman. Combined also with my experience working at York University's Centre for Refugee Studies, I have because of it been able to maintain a focus on my thesis.

TABLE of CONTENTS

INTRODUCTION ii

CHAPTER ONE: Justice for All 1

A. SYNOPSIS (1951 -1963) 4

B. EXPLICATION 13

i) Comprehensiveness 22

ii) Non-ideological 31

Intersection: Fairness as Mutual Aid 41

CHAPTER TWO: Adjusting "All" 45

A. SYNOPSIS (1967 - 1978) 51

B. EXPLICATION 68

i) Comprehension 75

ii) Ideation 84

Intersection: The Sense of Moral Creativity 94

CHAPTER THREE: Just Us 96

A. SYNOPSIS (1980 - 1988) 103

B. EXPLICATION 139

i) Non-comprehensiveness 147
a. Complete Justice 149
b. A Methodological Decision 152
c. Moral Geometry 155
d. Partial Ethics 162
e. The Shift 165

ii) Ideological 169
a. Partial Plurality 171
b. Philosophy for the Doomed? 174
c. Broadening Reflections 175
d. Ideology as General Belief 182

CONCLUSION 187

Endnotes 200

Bibliography 215

INTRODUCTION

It has become a standard admission among those in the field of moral and political philosophy that "the critical absorption of Rawls's thought into current discussion on the theory of justice has lagged behind his outpouring of work since the early 1970s."1 Precisely why such is the case, however, is far from clear. This situation is especially puzzling in view of the fact that Rawls' earlier works, most notably A Theory of Justice,2 have in large part determined the very character of current discussion. While the thesis I will be presenting is one which avoids any direct concern for others' understanding of Rawls, I believe it could be extended as a framework for explaining why general confusion has arisen regarding his more recent work. It will be my contention that the development of Rawls' thought has been one which underwent an essential shift in theoretical orientation, such that justice in early and in late Rawls can be re-presented as more or less distinct concepts. Given that Rawls has a book forthcoming which is devoted to retracing his own thoughts, my thesis is rather timely twice over. To illustrate this development I have reconstructed Rawls' scholarship into three periods, the second of which includes his major work as a transitional piece rather than as the summary expression it has more commonly been assumed to be.3 But while I will therefore be attempting to illustrate how Rawls' thought has been a "development" in a very rigorous sense, such is not to suggest that a superior theory has emerged. Indeed, it will be my further contention that the course of Rawls' development flowed in a direction which was inferior to another previously open to it. As an introduction to the general perspective I will be offering,

mention of a few personally motivating factors behind my critique should suggest why I think the theoretical distinctions to be identifed are of practical significance.

Like most any other person, those who know me can attest to the fact that I am by no means a moral saint. That is, supererogation is not my strong suit. But if I may be so presumptive as to assume, with all due respect, that at least my more pedestrian moral failings are things I share in common with my dear reader, then you will quite possibly sympathize with me when I say that sainthood is not my guiding moral ambition in any case. I am enough of a gnostic to believe that giving the devil his due is not in every case necessarily a bad thing. Nevertheless, some of the more thought provoking cases of ethical issues which I have come to experience personally, or at least to witness directly, have tended to be of a saint-sided sort that is too often put aside by otherwise "general" moral theories. The dimension of issues involved concern those persons who are one way or other deemed not to be "normal" by society, and the implicit assumption in ethical theory tends generally to be that one would have to be on the order of a moral saint to include the society of such persons in any way similar to how we might include "ourselves". Now while there may be some kernel of justification in this all too familiar reticence about acknowledging unfamiliar sorts, it seems to me more clearly to be the case that the main problem is to be found in the standards of ethical inquiry itself. The problem may be said to have two parts: first, appreciating what in fact is the normal as something beyond a one dimensional issue; and second, investigating the extent to which this descriptive ought to be

considered morally significant in the first place. In my view it is generally the case that both social planners and normative theorists tend to be too cavalier in setting up the conditions upon which the exclusion of persons not normally accounted for by social plans and normative theories may proceed, their having neither appreciated what is considered normal by whom, nor revealed why such ought to be assumed as a fundamental criterion, as opposed to but a pragmatic concession.

Having had direct experiences with the mentally and physically disabled, the emotionally unstable, the chronically unemployed, the homeless, and other ostensibly non-normal persons, and having identified among those experiences ones which I have found to have a moral dimension much more instructive and challenging than that which may typically be found within "normal" populations, I have come to be concerned about the steps moral theorists take in differentiating the sort of persons who are to be given to their theories' direct consideration. This is a concern that involves an especially critical dimension when it is directed at theories, such as Rawls', which purport to be primarily concerned with abstractly institutional issues rather than those of moral personality. My concern is not simply that such other persons be acknowledged, but also that the extent to which a theory provisionalizes its account to but an exclusionary brand of normal personhood is a measure of how meaningless it becomes when put in terms of "real" persons generally--that is, in terms of the ostensibly "normal" population. For the problems I and the many other "normal" (less-than-saintly) persons identify through our experiences with those who are in reality left wet by the umbrella of the mythical social norm

are, at least in a relative sense, rarely based in such persons' abnormalities but rather in institutional failings predicated upon the social norm itself--failings which, I believe, affect persons in general.

The failing is often that "society" creates conditions of abnormality in order to service a less than clearly justifiable normative order. For example, a proposed group home for mentally handicapped adults is delayed, relocated, delayed again, ..., primarily for the reason that its coming into existence at all would affect local real estate levels. Needless to say, it does not end up existing in the exclusively "normal" neighborhood. Such is but an extreme case of that structural bias which affects many otherwise normal populations. What concerns me is not simply that such practices are without morally justified grounds (for if all could be said and done, we may in the end find morality to be without such assurances), but that the brand of systematic normativization by which it is excused creates a false sense of normality. That is, the established social norm may be used to justify practices that are not to the advantage of normal persons. A moral theory, however, must on ongoing grounds attempt to re-establish direct access to ways in which such factually normal social exclusions are challenged, when and where they occur. The exclusions such theories permit are therefore of utmost importance, both to the theory's effectiveness in contributing to positive change in the world and to its direct audience's gaining a broader personal perspective, i.e. a view which our social reality and the theories that situate us in a tradition would otherwise lack.

The development of Rawls' theory can be marked by its increasing exclusion of persons to which it is expected to apply. On certain levels of consideration the exclusions are less contentious than on others; indeed, on some it must be admitted that they may even be justifiable, if only in a provisional sense. But in the main, the continued exclusivity of Rawls' account acts as a telling mark against central aspects of his methodology. In what I will be presenting there will remain an implicit assumption throughout that Rawls does not mean to deny the moral status of those persons he theoretically excludes, even if it is the effect of his theory that such denials are by default a logical consequence. For example, when he makes such statements as, "for our purposes here I leave aside permanent physical disabilities or mental disorders so severe as to prevent persons from being normal and fully cooperating members of society in the usual sense",4 I will assume he does not mean to imply that such persons' moral status is of a sort that they are less in need of being acknowledged in theory than are otherwise normal persons, even if this might be the logical implication. The critical dimension of my thesis will be directed at what Rawls takes to be "the usual sense" in which normal and fully cooperating members of society are to be conceived. This usual sense (the social norm) is more or less forwarded without critique by Rawls, such that the moral significance of what it is to be "normal", to be "fully cooperating", or to be "members of society" remains critically underspun. Not only does Rawls' account pitch itself short of the plate, but it shifts mid-flight into the same sort of backspin that the social norm uses when excusing itself from the bat that real circumstances would otherwise use

on it. Perhaps this "usual" meaning is to be captured by the basic idea that a person is a participant in a practice, an active social being, and not one in the passive position of merely being affected by it. That very distinction, however, will prove to be of greater significance than Rawls has apparently recognized. The situation of being "affected by" a practice, as opposed to "participating in" it, will be shown to capture a dimension of ethical issues which Rawls increasingly came to ignore, ...to ignore, moreover, despite the fact that these issues include paradigmatic problems of justice.

The essence of my analysis will concern Rawls' first principle of justice. His early and later statements of it read as follows:

> 1957 to 1971:
> Each person participating [engaged] in a practice [institution], or affected by it, has an equal right to the most extensive liberty compatible with a like liberty for all.
>
> 1971 onward:
> Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

The differences in the above are not merely cosmetic. Persons merely affected by a given social practice (or set thereof) remain virtually unaccounted for by Rawls in his most recent works. The clearest case of this concerns those who are not "citizens" when the practice is that of supporting a (constitutional democratic) "nation-state"--an activity which Rawls now seems to treat more as the divine right of our culture than as a practice per se, ...to the extent, at least, that he avoids questions concerning the global situatedness of this sort of regime by hypostatizing a conception of it as a politically, economically and culturally self-sufficient social structure. As a methodological

device, the notion of a "total system" has gained a significance in Rawls' thought that has transformed it into something which is hard to connect with his earlier ambitions. By reconstructing the development of his thought I aim to show what the more important connections are, as well as which disconnections ought not to have been made.

I will assume throughout that the reader is already generally familiar with Rawls' thought as he presented it in A Theory of Justice. To reconstruct the wider scope of works in terms of a developmental exposition I have preceded my analysis of each of the three periods with a synopsis of selected works, the lengths of which will increase in relation to the amount of previous analysis to be reconsidered. In particular, synopsis of the third period will be relatively extensive. My justification for this form of presentation is two-fold. First, I wish to approximate a comprehensive overview of each period in a way which might preclude the bias of my particular critique. The idea is that this will afford the reader with the critical tools to evaluate the more specific points I go on to make. It will also serve to orient the reader better to those senses of Rawls' thought which may be seen as standing outside of his major work. Second, my analysis of the third period will in theoretical terms be broader than that given to the first two. For it to proceed, the perspective developed out of the previous analyses will have to be augmented with a comparatively fuller expression of the dimension of thought Rawls offers at that time. The reader who knows Rawls thought largely as it was presented in his major work will in this respect need to be oriented to the national-communitarian liberalism of more recent Rawlsian vintage.

My analysis of Rawls will tend largely to be set in terms of his "ideal theory" focus, although I will make contextually intuitive shifts from this at times (eg. where I, or Rawls, talk in terms of "us" rather than the original position or the ideal of the well-ordered society). A second contextually intuitive issue concerns the ambiguity of such terms as "association" and "institution": the former has meaning both as the noun for the act of either cognitively or socially associating (both of which are important when considering what will be called the "ongoing" dimension of social practice) and also as the synonym for one meaning of institution, in the sense that the family is an institutional type of association; the latter may sometimes read as the noun for the act of instituting (important for the "ongoing" issue of establish-ing just practices), and at other times as the synonym for a social estabishment, in the sense that the monogamous family is (for us) a socially established type of institution, a dimension of the status quo. The whole notion of "social practice" is ambiguous in a similar fashion, as either an activity or an establishment. But it is out of such ambiguities that my critique will show itself. With all due hesitancy, I believe that the angle I will be presenting on Rawls is a new one, or at very least a new way of presenting what has been a rather vaguely defined angle: namely, that Rawls' theory of justice as fairness underwent a transubstantiation, away from the universalist grounds which underpin the ideal notion of democratic association (as a just institutional form for active social practice) and into those particularist grounds which might be said to characterize the domestic paradigm for a specific and established "Democratic" institution (as a

quasi-communitarian ethos for justifying claims of the American nation-state).

Most especially due to the fact that I came to be in the position of offering (what struck me to be) a new angle of approach, I have not concerned myself here with developing connections between my analyses and those which other critics of Rawls have offered. Rather, I have throughout directed my writing as a dialectic with Rawls' own material. Where mention of secondary materials subsequently seemed appropriate, I have done so in endnotes. References to Rawls' own works will be cited within the body of the text, giving year and page number (except in the synopses, where only the page number will occur, ...more complete information having occured previously in an endnote), and an "m.e." when emphases have been my own. Furthermore, quotes that are identical to an immediately previous one, in terms of their source and page, will be left unreferenced. In any case, with these prepatory remarks in mind I will now offer you my developmental reconstruction of two concepts of Rawls.

CHAPTER ONE: Justice for All

The primary issue I will explore in this first period of Rawls' thought, 1951 to 1963, is the sense in which he is addressing himself as a universalist. That is, he is presenting his account of "justice as fairness" in a manner that strives to avoid issues of exclusivity. Rather, it is (potentially) to apply to any case which would be described as a social situation of conflicting claims, and for any person who might be deemed a moral agent. His stated concern is for how human individuals are to be treated by social institutions, irrespective of their particular social associations, but simply in respect of their status as beings with a "sense of justice". To anticipate matters a bit, this formative concern becomes stultified later on in the development, due largely to Rawls' attempting to take the thoughts of this present period and re-present them within the confines of a closed-systems approach. What I wish to illustrate about his initial thoughts on the matter is that there was in principle to be no systematic closure of its relevance to any particular grouping of human individuals. Just as he viewed ethical inquiry to be analogous in its methodology to that of inductive logic, the procedure and principles of justice as fairness were to have a theoretical strength and reasonableness which made them sensitive to each and every substantive case of justice that might present itself.

There is, however, a problematic methodological issue in this first period that I will go on to explore in the explicatory section. It concerns the sense in which Rawls' "thought experiment" about a "general position" (to be distinguished from his later "original position"), as a

construction meant to reveal the content of principles of justice that diverse groups of individuals could mutually accept, subverts an important aspect of its own thesis: the individual. As I will later indicate, while Rawls was surely correct in representing persons as members of social groups, it remains that he erred in representing them solely as "members". For in as much as it is true that we want our social institutions to operate so as to respect those aspects of our sense of ourselves (and others) which are given group connotations, there persists for at least some persons a desire to be explicitly acknowledged as a self. Developments in later periods of thought will strive to recapture this sense, but only by representing the self as a citizen--a person whose moral status is given strictly in terms of membership in that established group-association known institutionally as the nation-state. Through the reconstruction it will become clear that without building considerations about how human beings are moral persons in and of themselves securely into his representation of contracting parties, there is a logical tendency for the construction and its principles to become relevant in but an exclusionary sense, ...one where those who are not members of certain groups, or members of a certain grouping of groups, are systematically bypassed. Analysis of subseqent periods in Rawls' thought will bear out how this lack of comprehensive inclusion can come to affect the substantive import of one's own conception of justice--at least where that conception begins as one meaning to aim at a universal order of significance.

In the upcoming synopses of Rawls' first period of works, attention should be given to how his propositions relate to persons as individuals

and/or as group members. The section which follows it will treat the issue in two parts. First, as comprehensive, I will consider whether the focus of Rawls' methodology succeeds in addressing his concern for "everyone". And second, as non-ideological, I will examine the question of to what extent a group-centric representation of the person might lead one into problematic assumptions about the moral significance of others, and thus, into rather unresolvable contradictions about how to include the "other" under one's own theoretical umbrella. Following that analysis, I will offer a brief comment on how Rawls might have directed his inquiry into a type of concern for human individuals which preserves their moral status as not a thing exhausted by their social standing as group members.

A. SYNOPSIS (1951 - 1963)

*** "Outline of a Decision Procedure for Ethics" (1951)1

Divided into six sections, this article offers a procedural account of what is essentially a pluralistic version of the ideal-observer perspective on ethics. The introductory section posits as fundamental to the very nature of ethical inquiry the following question: "does there exist a reasonable method for validating and invalidating given or proposed moral rules and those decisions made on the basis of them?"(177) The existence, reasonableness, and strength of such a method are what is taken to be central to the issue. Inductive logic is considered to be the most appropriate methodological basis for approaching the matter as a whole.

The second section defines a hypothetical class of competent moral judges, i.e. the sort of persons who would be capable both of formulating and of applying the procedure to be outlined. At least a normal intelligence quotient, familiarity with both general and case-specific information, a "reasonable" disposition, and sympathy are characteristics which such persons must have "to a certain requisite degree".(178-9) The test used for selecting moral judges must be one that preserves a measure of vagueness, is concerned with general characteristics rather than persons' specific acts, focuses on both "intellectual" and "moral" virtues, and presupposes no ideological claims. Once classed, these judges are intersubjectively to explicate principles out of a class of considered moral judgements, i.e. those intuition-generated propositions concerning particular test cases offered under the following conditions: with immunity, without personal

incentive, as representative of actual conflicts, with all given fair opportunity to respond, with "certitude", stable with respect to the considerations of others, and intuitive with respect to ethical principles--but not determined by principles.(181-2)

In the third section, how these judges are to explicate principles out of the above sort of judgements is dealt with. No concerns supplementary to the purely focused abstraction on commonly held intuitions about familiar issues are to be imported into the discussion. For instance, linguistic meanings, intentionality of assertions, or psycho-sociological causalities are not relevant matters. Rather, three basic criteria are to be strictly observed: a level of simplicity reflective of common-sense; an elegance appropriate to "the felt preference in view of the facts of the case and the interests competing therein"; and, an ongoing concern for the greatest possible degree of comprehensiveness.(186)

"Justifiable principles" and "rational judgements" are notions given more direct definition in the fourth section. The latter are that which must be made more clearly possible in relation to actual ethical problems, and the former are to be that which ground the procedure judges use to make such judgements demonstrably reasonable. In other words, "given the facts and conflicting interests of the case, the judgement is capable of being explicated by a justifiable principle (or set of principles)."(187) Both would meet the following criteria: intuitive relation to "moral insight"; acceptability to the class of judges; practical applicability; and, superiority to all considered alternatives.(185-6)

The fifth section offers a "provisionary" set of seven relatively intricate principles.2 But prior to this, an important restriction is put on the range of moral judgements to which the principles are to apply. Although both the "moral worth of persons" and the "value of certain objects and activities" are legitimate subjects of moral judgement, only the "justice of actions" is meant to be addressed. Thus, the kind of situation relevant to the procedure includes only that which "arises whenever it is the reasonably foreseeable consequence of the satisfaction of two or more claims of two or more persons that those claims, if given title, will interfere and conflict with one another."(191)

In the concluding section, the principles' connection to freedom of speech and thought is discussed. Additionally, a key clarification about the actual purpose of the methodology is noted. As a practical tool for ethical inquiry, the aim is not that of finding a way to discover justifiable ethical principles; rather, "it is best to view the exposition as a description of the procedure of justification stated in reverse."(196) That is, the proposed outline is offered as a reliable way to articulate competent persons' moral insights, so as to give these a greater practical utility. The justification of moral insight itself is not put in question.

*** "Justice as Fairness" (1958)3

The primary thesis of this article is to demonstrate that the idea of "fairness" captures the central essence of the concept of justice. Secondarily, it is directed at establishing the superiority of a social contract account of justice over that offered by utilitarianism. The

main subject of analysis is to be considered as distinct from issues related to particular actions or persons, by its being delimited to "the sense of justice as applied to practices, since this sense is the basic one."(165) Two principles are posited as "typical of a family of principles normally associated with the concept of justice." The first is explained as applying to the formal structural nature of practices themselves, and is thus purely abstract:

> [1] each person participating in a practice, or affected by it, has an equal right to the most extensive liberty compatible with a like liberty for all.

The second serves to prescribe how, in practice, substantive detractions from the first might, as a practice, proceed in a justifiable way:

> [2] inequalities are arbitrary unless it is reasonable to expect that they will work out for everyone's advantage, and provided the positions and offices to which they attach, or from which they may be gained, are open to all.

Both are meant to express three interrelated ideas essential to the very concept of justice, namely: "liberty, equality, and reward for services contributing to the common good."(166) As a technical term with appropriately abstract reference, given that the only relevant issue is that of justice as a virtue of social institutions, "person" is used as a term that "may refer to nations, provinces, business firms, churches, teams, and so on [...] although there is a certain logical priority to the case of human individuals."

The principles are not to be thought as derivative from a priori principles of reason or as otherwise in themselves intuitively self-evident. Rather, their basis of justification is to be understood through the construction of a thought experiment, wherein conditions are laid out appropriate to what would constitute an ideal contractual forum

for discussing the matter. As the main modification to be made to the utilitarian principle, such conditions would preclude "justification of inequalities on the grounds that the disadvantages of those in one position are outweighed by the greater advantages of those in another position."(168) In other words, everyone must benefit from inequalities if they are to be considered justifiable. That inequalities must be granted as having some effect in this theoretical setting is nothing beyond an acknowledgement of the necessity to make "concessions to human nature."(173) Mutually self-interested associations (comparable to families) composed of rational individuals who are non-envious, having roughly similar needs and abilities, satisfy their ongoing complaints about already established social practices by volunteering to join into formal discussions where they would forward principles under which their own and all other complaints in general ought to be evaluated. The restrictions entailed by this "general position" would lead the representative persons into a purely practical intersubjective attitude by which to evaluate the reasonableness of their own complaints, i.e. an impartiality whereby once proposed the person's principle would henceforth also be acceptable even as the basis upon which "his enemy were to assign him his place".(172) This hypothetical attitude is to be imagined as analogous to having a well-reasoned morality, just as having a morality is analogous to "having made a firm commitment in advance."(173)

It is noted that this way of coming to comprehend principles of justice is related to a tradition extending back to the Greek Sophists' appeal to prudence. However, differences are highlighted, especially in

regard to the most recent variations of that tradition referred to under the rubric of "game theory". While the notion of a "game" is relevant to the conditions of negotiation, it has to be understood in a way that is first and foremost strictly related to the concept of justice in and of itself. In particular, neither a general theory of human motivation is assumed, nor is there any preview as to which specific societies' practices are the most justifiable. As well, the account is in no way to be characterized as merely "fictional"; it is rather meant to bear directly upon any already established social situation, and is to be understood as "representing the actual quality of relations between persons as defined by practices accepted as just."(178)

The implicit sense in which "fairness" is found to describe the solution to this thought experiment serves as sufficient ground to induce the notion of "fair play" as a prima facie social duty, and hence also a right. A social basis for moral obligation is thereby established. Nonetheless, it is admitted that this is an "extended" way of employing the "ordinary" notion of fairness. Such is to be noted in as much as the governing idea that it is "not a matter of choice" by which we must ultimately agree to consent to the notion of fairness (i.e. to be moral) is not one entailed by that notion in and of itself. But given its intuitive relation to justice, the extension may be superinduced upon the reasonable assumption that "a resort to coercion" would in principle otherwise be a procedurally sound option, and that this is intuitively unacceptable.

The concluding sections of the article focus on why this contractual account is a superior one to that of utilitarianism, showing

how the latter fails to place sufficient stress on the central role of fairness. The example of slavery, as an intuitively unjust practice, is shown to be fully disallowed on principle alone through the fairness analysis. While the utilitarian may want to acknowledge the role of fairness, so as to guarantee absolutely a judgement in theory against such practices as slavery, the only means by which he can do so are unsound: "it is a mistake to resort to the urgency of feeling; as with the appeal to intuition, it manifests a failure to pursue the question far enough."(189) Instead, ethical theory must not merely direct itself to a general conception of justice and rely otherwise on matters of moral personality, it must focus fully on the central concept proper. The analysis must accordingly be as universally relevant as is the concept of justice itself.

*** "The Sense of Justice" (1963)4

Two questions are addressed in this article: "first, to whom is the obligation of justice owed?--that is, in regard to whom must one regulate one's conduct as the principles of justice require?--and second, what accounts for men's doing what justice requires?"(281) In order to account for these issues of moral personality, a "psychological construction" is developed in line with that of Rousseau and Piaget. But first, three contexts are noted within which "equality" is generally said to become an issue: to the rules of each institution, as definitive of institutions per se; to the fundamental structure of an institution; and, to the original position of deciding on a basis for evaluating those structures in terms of principles. It is out of the third general context that the first question arises. The second

question is a completely separate issue, in as much as it concerns the problem of human motivation in actual circumstances, rather than that of the abstract structure underlying those circumstances.5

The psychological construction analyzes three forms of guilt feelings as a way of illustrating how a sense of justice is developed. Authority guilt proceeds upon the following psychological law: "the child, moved by certain instincts and regulated only (if at all) by rational self-love, comes to love, and to recognize the love of, the parent if the parent manifestly loves the child."(287) On the basis that this fosters a capacity for "fellow-feeling", a second law accounts for the occurence of association guilt: "where another, engaged with him in a joint activity known to satisfy the two principles, with evident intention lives up to his duty of fair play, friendly feelings toward him develop as well as feelings of trust and mutual confidence."(289) Finally, and consequentially, principle guilt becomes possible in way of a third law: "if a person (and his associates) are the beneficiaries of a successful and enduring institution or scheme of cooperation known to satisfy the two principles of justice, he will acquire a sense of justice."(292) Such would involve, first, feelings of guilt about institutional infractions harming any other persons, and second, a willingness to support the improvement of institutions so as to make them more just ones over all. On the level of social practice itself, a "system in which each person has, and is known by everyone to have, a sense of justice is inherently stable."(293)

The two original questions are answered respectively. First, those who have a demonstrable capacity for principle guilt are those to whom

we are obliged to be just, for the reason that they are equally capable of feeling indignation when we or any others suffer harm as they are of feeling resentment when the harm is their own. In other words, they are persons with full moral feelings and as such deserve our full respect as moral beings. Others can at best feel indignant only if we are already associates of theirs, whereby their sense is not one of justice per se, but one on the order of friendship or family-tie. Thus, their complaints would depend upon appeals to the contingent particular fellow-feelings of a pre-established actual relationship, and not to the abstractly principled requirements of justice in and of itself. Second, it is just those complete moral feelings such as principle guilt, on the objective side, and on the subjective, indignation or resentment, that account for persons doing what justice requires. As basic to the essentally social character of being human, which "at least the vast majority of mankind have", the moral personality motivated by principle guilt is the most fundamental one that must be acknowledged in a proper theory of justice.

B. EXPLICATION

In order to be clear about Rawls' first period it would be important to distinguish it from aspects of his subsequent thought. As A Theory of Justice is, I have assumed, a work with which the reader is generally familiar, some brief description may be given as to how the works of present concern differ from it. First of all, the "general position", in spite of its obvious connections, is in fundamental respects distinct from that of the later "original position" (herein referred to simply as OP, and its members as POPs). For the purpose at hand, the most important difference is that it is in fact a general position, indicating no theoretical priority to the society which it addresses--indeed it itself is that society. Put another way, the general position might be viewed as an ongoing position, sharing as much with the later notion of a "well-ordered society" (WOS) as it does with the OP. Its members know who they are and what in particular they want, whereas POPs have no clue who they are and know only that they want something, but not what. Unlike those in the general position, however, members of a WOS are not in a position to come to a collective agreement about what basic principles of justice they will accept to govern the structure of their social practices; instead, we are to imagine that a certain few among them have already come to such agreement through their previous personae as POPs. The point of the matter is that there later occurs a division in theory of the practical labour going on in the general position, through the separation of parties into POPs and members of a WOS: the former reveal the formal issue of rational deliberations about justice, while the latter represent the substantive matter of (ideal)

compliance with just practice.

In contrast to this later separation of issues, for participants in the general position there remains a sense in which they are never out of the position of deliberating about what are the most basic principles of justice. One might view the general position as itself a special sort of practice, where the parties attempt to comply with just (well-reasoned) deliberation even while they might otherwise remain engaged in social practices the justice of which has yet to be demonstrated. That is, the parties are participating in the praxis of practice, if you will. Within the already established social system, we are to imagine that an informal or customary version of such conduct already existed in as much as "we can imagine that from time to time they discuss with one another whether any of them has a legitimate complaint against their established institutions."(1958,171) The general position can thus be said to represent the formal establishment of such discussions in terms of an institutional setting. Now while for practical, or perhaps more correctly, provisional theoretical purposes we imagine the parties coming together as a society and in a relatively brief space of time approximating a fulfillment of deliberations on the matter, there appears a recursive loop in this characterization of social contracting which has the potential of setting it apart from others. As already ongoing, "a society of persons amongst whom a certain system of practices is already well established"(1958,169-70), the general position is yet also to be construed in thoroughly hypothetical terms: "in contrast to the various conceptions of the social contract, the several parties do not establish any particular society or practice;

they do not covenant to obey a particular sovereign body or to accept a given constitution."(1958,176) Even to the parties themselves, therefore, the general position postulates a recognition in principle of the need to conceive of a universally relevant procedure for settling issues of social practice. They are not determining what "society" is, but rather how social practice ought to be structured. With a view to their already established social system, which Rawls indicates may represent anything from a neighborhood of families through on up to "every peoples", the establishment of a general position premises the parties' qualitatively re-establishing the system itself. Such is done by their consciously and collectively seeking to decide what are to be the basic principles upon which the system is to be (re)ordered, even while in doing so "they do not make any specific agreement, or bargain, or adopt a particular strategy." The system will subsequently oblige their compliance on the newly originated moral basis of their having had a part in, and having agreed to, the formulation of its governing principles--principles, that is, upon which it was morally regenerated. Nonetheless, there remains an interesting paradox within the re-established system in the sense that, as a system that was established prior to the introduction of those principles, it would not in itself be one to which the parties are or were ever morally obliged to agree.

The agreement entered into, therefore, occured without obligations of any socially established moral importance; but once entered it itself marks the creation of such an importance. The import is not of their agreeing to be obliged to the already established social system per se, but rather to the principles upon which its structure is to be reformed.

Thus, it is possible to imagine that while the parties may agree on the principles, they forever disagree fundamentally about the actual system. In that case, they remain in the general position of agreeing to continue as members of a general position--of agreeing to disagree about the system, so long as this is now done in terms of principles rather than brute claims of self-interest. In contrast, concurrent with their agreeing on principles of justice POPs also come to agreement about an ideal WOS structure, with the consequence that members of the resultant society are in principle always already in basic agreement about the system itself.

The significance of this differentiation from later developments is that in the general position much more is left open for a theoretical consideration of ongoing practical deliberation. For example, agreement about what in fact the already established social system actually was, and therefore what it is and what it should become, need not be assumed. There need not be a conception already in mind, in other words, of what it is that constitutes the parameters of a "society". Because it was never an element of the construction that these persons mutually agree about whatever it is that was already established (indeed, it must be assumed that there is sufficient disagreement to motivate collective negotiations), but simply about the need for principles upon which that establishment (whatever it was) will on future occasions be addressed, it is open for us to imagine, say, some members of the general position claiming that strangers, previously construed by various others as being non-members, ought in principle to possess rights of membership which those same others must henceforth recognize.

Advocates of strangers' rights would be in the righteous position to insist that persons who were previous not participants in the establised social system now have a basis within it from which to make claims. The advocates might, perhaps, have acknowledged that these others were without any immediate right to membership in the initial setting of the general position. However, in as much as their own group-interest remains one which is in basic conflict with social arrangements of the type that previously denied those others a way to participate, strangers' advocates would reject the claim that previous participation is a necessary criterion for future membership. Other groups might continue to have an interest in making such a claim. Nevertheless, as pursuant to such original disagreement, when the advocates agreed to the principle of "each person participating in a practice, or affected by it, has an equal right to the most extensive liberty compatible with a like liberty for all", they were agreeing to something which gave (in principle) rights of membership to strangers--at very least on those occasions where such persons have been (or will be) affected by the given society's established (or proposed) institutions. Subsequently, they may claim that if this was not what they agreed to, then they never agreed to any principles in the first place.6

If membership in the general position, like citizenship in a state or partnership in a business (but more fundamentally than these), denotes a person's official status as a "participant"; if in conjunction with a concern in principle for both those participating in and those affected by social practice "it is also necessary that the various

offices to which special benefits or burdens are attached are open to all"(1958,169); and finally, if the general position is framed "so that it will apply when the full complement of social institutions already exists and represents the result of a long period of development" (1958,177), ...then the office of being a member of the re-established society, even while not of the initial general position itself, ought to be one opened to parties merely affected by that social system. For if we want to respect such persons as moral beings, the conditions must be there upon which they may become participants and have the opportunity to resolve their complaints (or, if the effect was beneficial, to contribute to our society's common good as reciprocation for the reward it has bestowed upon them). A full complement of social institutions would, therefore, apparently have to be principled upon establishing the practice of extremely open membership, the only possible exclusions being those persons who have not been affected by the practices of that social system.

On the basis of the above reasoning, unless less broad-minded members would agree with the advocates that the negotiation of principles was not in fact completed--or at the very least, that the established system to which they apply is not "in principle" a closed one--the advocates might henceforth exempt themselves from any social obligation dependent upon the general position (which they were not obliged to be in in the first place), and yet continue living in the already established social system. As rebels without the clause, they themselves would thereby become strangers from within. Other "in principle" disagreements by other members on other matters might yield

the same sort of dis-position. For instance, groups of persons who read the "or affected by" clause as indicating that future generations, the mentally or physically disabled, or those unrepresented for other reasons must in principle henceforth be given direct and equal consideration might find themselves up against other groups who do not view their institutional obligations in that way. If such attempts to represent those whom others are interested in dismissing as "third parties" were denied, the surviving members of the now less than completely general position would nonetheless still face the practical problem of subsequent and ongoing difficulties in dealing with these now non-disposed groups of persons. To complicate the matter further, some continuing members may be unable to view them as non-members, and might continue on within the limits of the agreement speaking on their behalf due to ties of friendship and respect which happened to develop between them during the previously more complete arrangement. The more recalcitrantly self-interested parties might, however, deny the legitimacy of such other-directed claims, thereby fostering even more dispositions. Thus, to avoid a reduction into absurdity, it is more useful to imagine that the general position might continue its negotiations on an ongoing basis. This it could do by virtue of its members taking the "or affected by" clause as seriously as they take that of their own status as already established participants.

In contrast to this whole scenario, upon the development of an OP/WOS differentiation in the next period, much in way of those interests held by the likes of strangers and their advocates are undermined and written out a fortiori, as will be seen later on. The

point of the discussion thus far has been to show not only how it is appropriate, but also why it is more reasonable, to imagine Rawls' initial "general" position as an ongoing one in which full agreement on the systematic context, if not the principles themselves, might in principle never be reached. Indeed, Rawls himself states that his purpose is not that of offering "a proof that persons so conceived and circumstanced would settle on the two principles, but only to show that these principles could have such a background..."(1958,174) Hence, it would seem that we are allowed to continue imagining it, after the above due reflections, as a truly general one, i.e. as (potentially) "complete" in respect of its constructive capacity to incorporate the broader range of deliberations about the justice of social institutions. Such would also lend to the account an order of relevance appropriate to the broadest spectrum of compliance issues.

What I will now examine is an issue present even in the description of an ongoing general position which, I will contend, may precipitate "in principle" dis-positions not wholly dissimilar to those avoided by the above. As mentioned earlier, this issue involves the notion of representing persons in the basic situation of contractual moral agency most fundamentally in but the terms of each always being members of some respective "group", and for the purposes of social cooperation committed only to a group-interest. By his first presenting us with the vision of a general position of "mutual self-interest" in the sense of rational egoism (where, incidentally, the formative psychological conditions for a sense of justice are by definition completely lacking), Rawls offers us as a qualitatively tempered notion the view that "one can form a more

realistic conception of this society if one thinks of it as consisting of mutually self-interested families, or some other association."(1958, 170) To justify my "ongoing" reading of the general position, I simply assumed that the order of association was that sort amongst which one might find a group whose interests include a concern for those society tends to exclude as strangers, etc. As a case of such an order, the plurality of what are commonly referred to as "non-governmental organizations", or NGOs, include ultra-societal groups such as Amnesty International, Oxfam, and Tools for Peace, just as they include the National Rifleman's Association or expressly insular ones like the Aryan Nations. While the ruling "self-interest" of the hypothetical group in question was also an other-directed one, there is nothing in Rawls' account to rule out such an interest in the form that it was presented.[7] This is an important point, for the others to which their interest is directed are not those originally in the (initial) general position, so it is an interest which would put them in potential conflict with these others. Rawls will for some time, even if infrequently, continue respecting this dimension of interest. For instance, such is done in his first renderings of the OP, where POPs "are assumed to take no interest in one another's interests (although they may have a concern for third parties)".(1971.b,147) In any case, Rawls needed to present a non-egoist scenario so as to "form a more realistic conception of this society"; that is, in order to effect an implication that, at minimum, as individuals these persons already possess the basic capacity for authority and association guilt--i.e. the necessary grounds for the complete moral feeling of principle guilt, upon which later compliance

with the agreement would depend. So the cognitive basis for an interest in others--for an interest in persons "affected by" a society's practices--is evident. To present the methodological problem which persists inspite of this, I will now turn to the theme of comprehensiveness.

i) Comprehensiveness

In his first article, Rawls states that "the defining characteristics of a competent judge have not been selected arbitrarily, but in each case there is a reason for choosing them which accords with the purpose of coming to know."(1951,181) Coming to know, that is, how to conceive a procedural basis upon which we might express most reasonably the implicit justification of our substantive moral insights into questions of justice. While non-verbal moral justifications (sentiments) are always brought to mind by virtue of our moral insights into particular cases, Rawls' concern is that we have no direct insight into how a formal procedure corresponding to such justifications might be described. Without such a description, there is no clear framework upon which we may reliably articulate the substantive demands of those intuitive justifications either to ourselves or, more especially, to others. And without that, the justifications of moral insight are of limited practical significance or social value. Thus, we must imaginatively construct such a descriptive framework and accordingly learn how best to think intersubjectively about our own moral thoughts.

To get a better sense of what Rawls means by "moral insight" in relation to this purpose of coming-to-know, it would perhaps be useful to think of such phenomena as what is in essence the morally thought-

provoking--the sense that, in the case of social justice, a given practice is morally justified (or unjustified) which occurs to us more or less independent of any other thoughts we (or others) might have on the matter. In the terminology of A Theory of Justice, having a moral insight might be thought of as recognizing an instance of "natural duty".8 The less congruous the insight is with our other thoughts, the more it would provoke them (eg. pangs of conscience when we attempt not to acknowledge the fact that our social practices affect others). For Rawls, in other words, moral insight may be conceived as an unpredefined intuition with positive vagueness--a special order of thought which, as the instantiation of our practical faculty for recognizing natural duties, we are impelled to sense is in need of being thought more concretely. In the third period, these will be reconceived as culturally basic intuitive ideas. While moral sentiment (for Rawls, principally in the form of guilt) is what impells, the insight itself is not just a feeling but essentially a reason as well. Articulating how it is reasoned is that with which Rawls views ethical inquiry must be concerned.9

On its own, such a reading of Rawls is admittedly a somewhat implicit one. But it seems consistent with more explicit aspects of his thought, and it serves to explain what sort of ideas are being mimicked and developed within the minds of his hypothetically pre-moral agents so as to clarify those of our own. It is in this respect that his initial notion of a "class of competent moral judges" was one which Rawls modified extensively when he came to portray the members of the general position.10 As an intersubjective problematic of conflicting interests

for the arena of our own mind, the plight of these latter persons functions to put our thoughts on questions of justice into a context of pure social negotiation--one not dependent upon the authority of but a selective grouping of persons. For all their apparent virtues, the former "class" of moral judges could not help but make us think of legislating social morality from above. But in as much as we ourselves and the persons we share institutional arrangements with are in social reality unerringly erring mortals--persons with but the potential of negotiating within a situation of myriad levels and types of inequality, the extreme being cases of persons merely affected by these arrangements--Rawls adjusts the contractual setting so as to avoid elitist modes of thinking and thereby provide a description of ethical procedure which we may conceive as being most reasonable for all in our given social circumstances. Hence, the general position's "concession to human nature" is a methodologically central feature:

> The character and respective situations of the parties reflect the typical circumstances in which questions of justice arise. The procedure whereby principles are proposed and acknowledged represents constraints, analogous to those of having a morality, whereby rational and mutually self-interested persons are brought to act reasonably.(1958,172)

A common lowest-denominator, in other words, is employed to clarify thoughts which we are already fully aware involve much more. The thoughts to be clarified are nevertheless ones which we ourselves are yet unclear about. It should be noted here that a clear case of such unclear thoughts is the question of how, in fact,we can acknowledge those merely affected by our common social practices. My basic assumption will continue to be that we are already fully aware that we ought to do so--even if we are not clear on how. By giving us a

hypothetical situation where persons must work out a way to achieve social cooperation despite their opposing interests, Rawls is offering us a way of showing how our morally thought-provoking ideas concerning questions of justice may be articulated, first to ourselves and then to others--a procedure of "reverse justification" which, starting as it does with principles that are intuitively relevant to such thoughts, is not already dependent upon giving special theoretical status to a separate class of judges.

To act reasonably, the parties must be imagined as first coming to a self-understanding about how rules for social practice ought to be structured; how, that is, they might understand the structure of social rules to be governed by principles which are potentially of their own design. Since the utility of social rules is measured by their ability to apply to each case of the relevant practice as these present themselves, the choice of principles for the background rule-structure must take into consideration the piecemeal nature of addressing particular situations.11 Cases of accounting for persons merely affected by social practices are paradigmatic of this piecemeal nature, occuring as they do as the exceptions that test the rule's relation to its premises--which may themselves subsequently come into question as well. For example:

> Case: Mr. Black wants to vote about practices affecting him.
> Rule: Blacks are not allowed to vote, period.
> Premise: Blacks are incapable of voting.
> Question: Why are blacks not capable of voting?
> Answer: Because the customary rule says so.
> Proposition: Since there is no other reason, and since this person is affected by social practices, the practice of voting needs to be restructured to allow persons such as Mr. Black the opportunity to participate as a voter.

The general position represents in the first place a process for determining a comprehensive procedure for addressing such cases; it is not a situation in which persons simply invoke deductions about moral truth (eg. white = morally capable) and call them principles, as if uninterested in how such purported truths might affect them in unpredictable future circumstances (eg. a bullet in the head). Likewise, we ourselves should abstain from such assumptions when trying to make clear our own moral thinking, and opt for a mode of thought which allows us to determine what a reasonable social claim would be, and how we might rationally provoke all others into thinking how it is reasonable as well.12 To be most reasonable, the justification of the claim would have to be considerate of everyone it potentially affects, as the same justification may be used by others in a way affecting ourselves (eg. black = morally incapable, therefore blacks are not culpable for putting a bullet in white heads).

Accordingly, a reasonable description of social contracting is to reflect the fact that the methodological basis for determining each criterion related to coming-to-know how best to articulate our moral insights has, in Rawls' view,

> [...] its parallel, or analogy, in the tests which are applied to inductive criteria. If we make the assumption that men have a capacity for knowing right and wrong, as they have for knowing what is true and false, then the present method is a likely way of developing a procedure for determining when we possess that knowledge; and we should be able to evidence the reasonableness of ethical principles in the same manner that we evidence the reasonableness of inductive criteria.(1951,190)

The "psychological construction" of three stages of guilt expresses this inductive dimension of moral reasoning, and parallels both the developmental nature of the ongoing general position and the position we

ourselves are in when using procedure to reason with others. From self-love through to family-tie, ties of friendship and association, and finally to a concern in principle for "everyone", the capacity for having a sense of justice is one which develops from particular grounds and into a universal one. Likewise, the general position begins as a diversity of particular group-interests and develops through the inductive deliberations of each into (or in so far as it is an "ongoing" one, continually toward) a contextually universal set of principles. The question behind all that Rawls offers, however, is whether inductions stemming from group-norms are universal for individuals, or just between certain groups of individuals. If the latter, then a precondition for both the acceptance of the procedure in our own mind, and the task of making it effective when reasoning with others, would seem to be that we and others are sufficiently determined by that which could be considered as group-interests when questions of justice arise.

Consider first who are the negotiators in the general position. Rather than a "class" of moral judges, they are given a more generalized character, as diverse classes of hypothetical persons with what seem to be their own motivating interests. Collectively they are moral legislators; individually they are lobbying for their own interests--but in neither case does it appear that they are judges per se. And yet, because these persons are now to be thought of in prototypical terms, as representative of "associations", there is a sense in which the constitution of moral commitments in any given individual is one pre-established by a respective self-interested family (or some other form of association, possibly even that of a nation). The member of the

general position acts intentionally to secure the norm of interests (i.e. the "common" interest) had amongst a particular association of individuals, and not especially the interests of these individuals as such--including apparently even him or herself. Rather, such persons are effectively once again judges, in the sense of being the adjudicators of what normative description best represents their respective group's interests. The judgement would have to discount intra-group conflicts, just as parents discount their children's sometimes counter-familial behavior.

As a special case of social practice, the general position is in this way its own clearest case of an activity the result of which pertains not merely to its participants but to persons merely affected by it as well. The negotiation involves a contest of group norms, none of which may be sacrificed, but out of which principles of individual liberty and equality must arise. However, the whole moral dimension of uniquely individual interest was not represented at all. Is such the price that must be accepted as paid if we are to avoid presenting the general position in terms of strict rational egoism, or is it an indication that something is insufficient in terms of the construction's description? Put in another way, can a practice according to which "participating in" already requires specific group connotations adequately acknowledge the sense in which those "affected by" it, including the parties themselves, are always (at least potentially) individuals whose interests cannot be summed merely into the terms of a particular group expression?

As mentioned in the synopses, over and above his "ambiguous" use of

the term "person", Rawls means for there to be "a certain logical priority to the case of human individuals."(1958,166) This priority must ultimately be preserved if his account of justice as a virtue of social institutions is to conform with the conclusions of his psychological construction of the sense of justice--this being a moral feeling, the minimum requisites for the development of which "are possessed by men as part of their original natural capacity"(1963,302), and the fulfilled expression of which supposedly transcends the influences of their contingent and particular social associations. Such conformity between accounts must, itself, be achieved if justice as fairness is to be psychologically sound, or theoretically "complete".13 Unlike authority and association guilt, principle guilt is not in any way constrained by the morally arbitrary boundaries of a particular grouping of persons. As a "complete" moral feeling, the principles according to which such guilt is to be articulated in a relevant objective way must themselves be complete in the same manner. Or as Rawls writes:

> Principle guilt is, then, connected with the acceptance of the principles of justice. It represents a step beyond the understanding of their derivation which is all that is presupposed by association guilt. One might say that principle guilt is guilt proper. It is, as the two previous forms were not, a complete moral feeling.(1963,292)

Thus, both principle guilt and the principles of justice must be imagined as transcending (but not necessarily preserving) any and all particular forms of social association, eg. the family or the nation. We must be able to understand the principles of justice in a sense that is a step beyond their group-centric derivation.

To achieve for the argument upon which the principles are justified

a sense of deductive strength akin to the deductive strength of inductive criteria, we must be able to take the inductive step of viewing them (and the procedure) as sensitive to individuals who might not also be viewed primarily as participants in a particular grouping of particular sorts of groups--that is, in a limited institutional context, such as a finite collection of families. For what Rawls calls the sense of justice, one must have an "in principle" concern about how social arrangements affect human individuals, or "everyone". Accordingly, just as "one who lacks a sense of justice lacks certain fundamental attitudes and capacities included under the notion of humanity"(1963,299), so would an account of the concept of justice which lacked the capacity to acknowledge "the vast majority of mankind" be fundamentally incomplete. Given that there are in this respect to be no pre-eminent levels of social association which are to be the limits of a complete conception of social justice, the logical priority of concern for human individuals ought to be one which is in the end dependent only upon conceiving social activity as a human phenomenon. That is, the concern should ultimately be that of accounting for the human activity of ongoing social association, and not merely for how individuals' interests must conform within a particular common (established) dimension of institutional levels of association. The ideal situation would be that any given dimension of social practice is just because it is able to acknowledge any person it affects, i.e. because it is a thoroughly "humane" practice.

While the strictures of group-conformity are an important aspect of individual interest, to represent any given person's interests strictly

in terms of a particular group dynamic would result in a censure of the interests which keep collective interests a living force. The life of a group (as opposed to its communitarian ethos) is largely the lives of the individuals who participate in affecting it, given either their membership in and associations with other groups or those aspirations they have which put them outside the established context of groups per se. As any feminist, for example, would insist, when a person is effectively not allowed to affect a group to which she belongs, it becomes apparent that the normative articulation of that group's interest becomes all the less an interest which is meaningfully hers--that is, it becomes an interest which merely affects her. Instead, just human association is an ongoing activity, influenced by individuals who are capable (i.e. possess a certain maturity of reason) of accepting or rejecting the passage of restrictions which their own or other group affiliations might levy upon them, and not simply (or even ideally) a structurally static objective circumstance.14 To view it in the latter way would be to limit oneself one way or another (assuming the account already has ideal substantive import) to an ideological truth claim, which, as I will now show, Rawls does not want to do.

ii) Non-ideological

In the sense that the substance of Marx's thought is most commonly conceived as bound by those levels of human association appropriate to the proletariat, out of which it is acceptable that the bourgeoisie may merely be "affected by" ostensibly just social reform, it has come to be understood as an ideologically predisposed account.15 But for Rawls, the problem is instead to be seen as the purely (albeit socially

substantive) logistic one of preserving what is basic to our sense of those original moral insights we have as beings with a sense of justice --which is, perhaps, how one might also appreciate the underlying sense of Marx's concern for "species-being" as well. That is, issues of which class or level of human association is the "truly" appropriate one for conceiving our conception of justice serves only to cloud the issue, such that inappropriate assumptions are entered into:

> Ideologies, of whatever type, claim a monopoly of the knowledge of truth and justice for some particular race, or social class, or institutional group, and competence is defined in terms of racial and/or social characteristics which have no known connection with coming to know.(1951,181)

For instance, even if we are to view the general position as the inter-association of families, it would seem that we should not view all representative members as, say, fathers. But as will be seen later on, because of the germs of contradiction it plants in his group-centric account, in his third period of development Rawls will detract significantly from this race/class/institutional group prohibition through an analysis of how we may come-to-know a connection monopolized by what are to be considered as "culturally basic intuitive ideas"--ideas which by default justify our conceiving justice in a way that allows our own priviledged nation-state and, through it, ourselves to treat our fellow (full and active normal) citizens as having a moral status above that of strangers, etc. That is, ideas which by default permit our "affecting" non-citizens, without acknowledging them in our conception of justice. In the present period, however, Rawls' analysis of the concept of justice aims clearly not to depend on conceptions of it which ideologize in any way. Rather, his is to be a universally

relevant conceptual analysis which is responding directly to those moral capacities that "can and often do belong, at least to a certain degree, to men everywhere." Or as he puts it in the concluding section of his 1958 article,

> [...] every people may be supposed to have the concept of justice, since in the life of every society there must be at least some relations in which the parties consider themselves to be circumstanced and related as the concept of justice as fairness requires. Societies will differ from one another not in having or in failing to have this notion but in the range of cases to which they apply it and in the emphasis which they give to it as compared with other moral concepts.(1958,193-4)

All that need be satisfied for the account to be applicable to the effects of social practice on any given individual is that this person is capable of a sense of justice. And to be capable of a sense of justice, if this is not already clear, one must at this time be capable of being concerned "in principle" about the plight of "every people". The account of the sense of justice (principle guilt) and that of the concept of justice (the choice of principles in the general position) are in this way interdependent.

Rawls' account of the concept is therefore considered to be appropriate from the perspective of those moral capacities "satisfied to the required degree by the vast majority of mankind", namely: "to understand, at least in an intuitive way, the meaning and content of the principles of justice and their application to particular institutions; to understand, at least in an intuitive way, the derivation of these principles as indicated in the analytic construction; and to have the capacities of feeling, attitude, and conduct, mentioned in the three laws of psychological construction."(1963,300) Put in another way, Rawls writes that the minimum required degree of capacity is that

"sufficient to share in the position of equal citizenship in a constitutional democracy."(1963,302) Now while this particular form of socio-political organization might easily have been seen already to be consistent with--if not actually implied by--his writings to this point, the foregoing reference is Rawls' first published indication of such a connection. It will serve subsequently as the most basic "intuitive" level of just human association, i.e. the normative context within which principles for just social practice on any level ought to be conceived. Gradually, however, the account will unfortunately transform itself away from a theoretically abstract ideal of a democratically "open" society, where the practical gap of membership is directly addressed in an ongoing manner, and into a one-dimensional closed system where the social potential for establishing just institutions is reduced to that of serving the interests had by full and active normal citizens within First-World nation-states.

In as much as social institutions the world over are at this point still to be considered as (potentially) the subject of the account, can the vast majority of human individuals be imagined as capable of sharing in a group/self-interest based position of equal citizenship in a constitutional democracy? To answer this in a way fair to Rawls' analytic construction, we must be careful to keep in mind that such a capacity need at this time relate to but an abstract conception of constitutional democracy analogous to the hypothetical general position, and not to any substantively manifest one (although those would in principle presumably be accountable in terms of it). Nonetheless, the capacity itself must be real enough--otherwise we would only have a

hypothetical obligation, which is to say an obligation we would have if only it were the case that these others' capacity were real and not strictly hypothetical. In that case, there would not be a purely logical priority to human persons in general, but only to that class of humans for whom the hypothesis and reality happen to have conflated. Furthermore, given that the concept of justice in question is itself held to be one which "every people" have, the relevant order of "citizenship" (inspite of that term's idiomatic meaning) would logically be one shared on a global basis--in principle, that is. Likewise, our feeling of principle guilt would be one extendable to persons who are not classified as, for example, fellow citizens of our own nation-state. If, however, the class of capable persons turned out not to represent the vast majority of mankind, then the priority of human individuals would be all the less clearly a mere logical one. Indeed, those individuals that the account might, by implication, "associate" into groups not capable of such citizenship would, by default, not garner that status as individuals needed to guarantee their receiving any attention at all. Only persons capable of membership in a certain designation of groups (as opposed to their unique capacities when put in terms of their potentially individual interests) could be included under the general position of constitutional democracy. What groupings of individuals, then, may we reasonably assume not to be so classed?

At very least, persons with severe mental retardation, psychoses, or neuroses would seem incapable, even in the proposed "intuitive" way. This would equate with the tendencies of our own established social structures to encourage the separation of such persons from the family,

and other "normal" social institutions, by putting them outside society proper and into what are all too ironically known as "institutions". Rather than having the village socialize with its idiot, society has established separate villages for them. An "association" of mental abnormality has arisen, but not as an association which has been allowed much participation in the broader playing-field of social practice. As such a group, would the interests of these individuals be allowed a voice? Since there is a general tendency not to consider such persons, as a group (let alone as individuals), it would appear only normal that this exception not be pressed. Then again, in the context of Rawls' psychological construction of the sense of justice, whom might that sort of normal exception exclude? It would be reasonable to imagine that an abused childhood would necessarily have some bearing on moral development, if only by way of making intuitive understanding less clear or more difficult for the person. However, these sort of problems might seem either to be on the order of a merely technical distinction, wherein potential capacity may at least formally be said still to exist, or else to be essentially equivalent to the prior sort of mental disorder, whereby we may re-associate them as a group and leave them beyond the borders of the just society, theoretically dismissing them outright. While this way of thinking would manifest itself as a social practice which "affects" such persons, perhaps it is not to be taken as the sort in which there is the potential for basic questions of justice.

Then again, if it is granted that an abused childhood could serve either to make one's capacity for a sense of justice more difficult to acquire, or else to negate or otherwise seriously stunt it, and if for

the sake of argument we grant that such a childhood is generally believed to be an abnormal one (where "abnormal" implies, at first, numerically rare), are there other abnormal upbringings that may have a similar effect? In our modern secular society, a severely religious upbringing is generally considered to be abnormal. If in at least some cases such an upbringing, while not necessarily negating the development of a sense of justice, serves either to stunt it significantly or to make it less clear and more difficult to acquire, would this also affect the person's ability to share in the position of equal citizenship in a constitutional democracy? We might presume that God's (or gods', or Buddha's...) expectations are for such a person considered to represent a normative interest that is unequivocally more obliging than that of respecting those which other groups of persons forward. I would suppose also that, despite His being the best judge of that interest, we can assume that God is not a party to the negotiation. But given the latter suppositions, might we not have to assume further that the fervent follower's permissible contribution to the general position would not in his or her view be adequate? Perhaps members of the general position might, subsequent to their own agreement, deign to take the further step of writing God into the constitution, and thereby "recognize the supremacy of God and the rule of law".16 At best, this would constitute but a passively inferred concession to the religiously determined person; at worst, it may involve an actively deferred one, where the deference is coerced whenever conflicts arise. Either possibility strains the notion of equal share, i.e. the share to which the grouping of "normal" persons have a right. We might therefore just have to

accept that as a group such persons are to be excluded.

Then again, what of the effect of the language or, more generally, the culture of a person's upbringing? If in the abstract framework of a constitutional democracy (let alone a manifest one) the inclusion of certain varieties of cultural disposition would at very best be considered abnormal, if even possible, would this lay the ground for excluding those persons who attend to such cultural ways, or at least suggest a reason for sieving out some of the equality of their hypothetical share? ...But perhaps the point has been sufficiently made, at least for the moment. It is this: imagining whether the vast majority of mankind is capable of sharing in the group/self-interest based position of equal citizenship in a globally relevant abstract framework of constitutional democracy is either inherently patronizing, where the actual problems as to whether even an intuitive capacity is present or effective are dismissed as mere technicalities, or it is doomed to failure. In either case, surely there are questions of justice concerning "our" relations with these other persons--questions which cannot be attended to so long as we, as individuals, remain limited as but members of the "normal" grouping of humans, and as with the accompanying group/self-interest of "normality". During this period, Rawls seems to be operating under a moral insight that the vast majority are appropriately capable--that, "ethically" speaking, as a group humans are for the most part "normal". Indeed, this must be true to the extent that he wants grounds to believe that their ethical status as individuals is one logically prior to the social associations to which they belong, and by which our way of thinking about them (and

ourselves) is influenced. But he has given no other way of articulating this intuition than to say that it in some sense just is logical. In as much as there is an implicit procedure of separating "us" from "them" by virtue of group-interest dilemmas which seem unresolvable, it remains unclear how we are to articulate our moral concern for such persons in terms of just social practice. Can we, however, avoid affecting them? If not, can I as an individual expect social institutions to ensure for me an open access to the possibility of acknowledging such persons as individuals?

Without the apparatus by which individuals might be represented just as individuals--as, at least, a complement to their also being members of groups--issues of exclusivity tend logically to undermine any account of justice that strives to have a universal significance. Rawls' account at this time clearly aimed at providing such significance, but the methodological assumption that individuals may be sufficiently represented as members of self-interested associations was one which went on to misdirect the substance of his inquiry. If the principles of justice are not only to address the collective rights of conflicting groups, but also the human rights of individual human beings, then it should not be assumed that persons are necessarily determined in their interests solely by a given collectivity.17 While, for example, I might be associated more or less with a "normal" population, am I also interested primarily in securing the interests of normal persons? Might I not view most of those interests as, from the perspective of those who are associated (by default or otherwise) with abnormal groups, already secured? As a possible way in which Rawls

might have re-directed his inquiry so as to respect more fully the moral potential of the individual, and the breadth of moral concern, I will now offer a brief description of what the account should have gone on to include.

Intersection: Fairness as Mutual Aid

As I will discuss further in chapter two, Rawls' later thoughts on the concept of justice present a picture in which moral ideas that might otherwise have been considered just as complementary to it as is fairness become, instead, dissociated from it. While presenting "fairness" as, alternately, the "central idea" in the concept of justice and an idea "typical of a family" of ideas associated with it, Rawls also meant to correct the view that "the concepts of justice and fairness are the same, and that there is no reason to distingush them, or to say that one is more fundamental than the other."(1958,164) If justice is to remain more fundamental, then other ideas might be needed to counterbalance that of fairness. One of these ideas, which in A Theory of Justice is briefly presented as a natural duty to be distinguished from the natural duty of justice (even though the extent of the distinction is not explained), is that of "mutual aid".18 Perhaps most familiar in the tradition of moral philosophy as the basic principle of an anarchist model of social association, as for example in Petr Kropotkin's accordingly titled **magnum opus**,19 the effective force underlying it is the notion that one must treat oneself and others as (to use a phrase Rawls himself will later employ) self-originating sources of valid claims--not necessarily in all cases on merely "fair" terms, but always on "mutual" ones that connote the person's being an individual who can (potentially) choose which interests are to be understood as his or her own. Thus, rather than representing the prototypical moral person primarily as a being determined by the normative currents of a given group, in which case the issue would be

akin to establishing inter-communitarian principles for competing herd-mentalities, the prototype would be that of the individual who is (also) willing to help any other to the fullest extent that the social structure might allow, ...and whether or not these others are also already capable as members within it. In other words, representation of the person's sentiment of principle guilt and sense of justice would be such that social obligations are undertaken not simply in terms of the established norms of society (passive agency), but more especially in terms of establishing those practices needed to address persons affected by that same establishment (active agency). The extent to which the institutional structure of a society hampers such involvement would be the extent to which it may be considered unjust, and to the active moral agent this would allow for the possibility of indicting society itself with being systematically self-interested--that is, of being a custom-governed non-general position which declines a morally principled commitment to reform. Such a society affects the moral agency of those participating in it by institutionally subverting their awareness of moral duties to those it excludes, representing these others as members of associations that are without negotiating power and, for social purposes, not moral beings proper.

In terms of the self-interest approach Rawls presents, the main revision involved in incorporating conditions of mutual aid into the framework is that the just function of social institutions is no longer viewed strictly to be that of securing for each participant in a practice the benefit of a "reward for contributing to the common good", but also the benefit of a reward for offering the common good to those

affected by it. In each case that the existing social arrangement serves to incapacitate an individual from contributing to the good of an affected individual--where, that is, that arrangement fail to extend the definition of the good to include that of this other as part of the "common" one--the active moral agent may on this account justifiably claim that the established order is unjust. Such claims would complement claims from self-interest that affected persons might otherwise make (if only they were permitted a way) in Rawls' framework, and would thereby further the completeness of the account. Rawls' special use of mutual self-interest, on the other hand, must always assume that the individual is a member of a group recognized as having (i.e. powerful enough to demand) input into the general position. But those merely "affected by" social practices are rarely, if ever, part of such a group. It is the privilege of those who are participants to acknowledge those who are but affected--a priviledge already taken up as a responsibility in the notion of strangers' advocates introduced earlier--and persons with even a proximally developed sense of justice need a way to represent their moral personhood which allows them, as individual participants, to contribute to the good of those individually affected. Such a privilege is not something which gains proper articulation in the insular framework arising strictly out of self-interest, even when this is conceived in group terms.20 Indeed, the abberant notion of advocacy groups is aberant (if infact it is) just because it opens up and plays upon the nebulosity inherent in the very notion of self-interest.

In point of fact, the possible fulfillment of those responsi-

bilities clarified through conditions for mutual aid is for persons with a sense of justice surely also a benefit, in as much as that clarification affords such persons an outlet for their principle guilt. Without it, they are left with the recognition that there is nonetheless a guilt by association in their being participants in a social system which affects others but does not acknowledge them. Even to be fair, in other words, justice must be so conceived. Rawls seemed to recognize something of this sort at times; for instance:

> In the same way that, failing a special explanation, the criterion for the recognition of suffering is helping one who suffers, acknowledging the duty of fair play is a necessary part of the criterion for recognizing another as a person with similar interests and feelings as oneself.(1958,182)

The point that should have been developed further is that, as a person who wishes to make a firm commitment about how to respond to others in terms of a conception of just social practice, to be fair one must first of all have the capacity to recognize the interests and feelings of others at all. If one's potential is that of an ever broader capacity, to be just the practice itself must allow one the possibility of considering it from the perspective of everyone it proves to affect--but most especially, from the perspective of those whom it affects without the benefit of their participation in it. As will soon become evident, however, Rawls' concern is not so much for opening up a way by which we might resolve our feelings regarding persons merely affected by our social practices, but for giving us a position according to which we might resolve our feelings of self-interest amongst those with whom we are participating in a particular social association--the nation-state. To analyze this concern directly I will now turn to the second period.

CHAPTER TWO: "All" Adjusted

There are many aspects of Rawls' thought during the period of 1967 to 1978 which would be relevant to the reconstruction. In relation to A Theory of Justice alone there are more than I could possibly hope to give full due. Perhaps among the most obviously pertinent issues which Rawls discusses, but which I will largely ignore, are those surrounding the notion of civil disobedience.1 Because the whole idea of representing the moral status of humans in terms of but a certain level of group membership--namely, that of citizenship--is logically prior to such gentrified issues as "civil" behavior, and because the moral position of the individual as a human is the idea through which I wish to focus my critique most explicitly, the significance of Rawls' treatment of state-sanctioned versus conscientious forms of protest will remain but implicit, as not directly fundamental to the analysis. For the nation-state is itself a social institution and, as such, should (in ideal theory at least) be held accountable prior to there being any issue of placing the practical burden on the particular actions of individuals. In any case, civil disobedience is an issue with which Rawls apparently lost scholarly interest as the "60's" phenomenon of it evaporated--and it is all but absent in his third period of writings.

I will, instead, be concerned with the more abstract issue touched on in the foregoing Inter-section. As before, my synopses of three articles from Rawls' middle period will in themselves be true to the general structure of those works, but they should be considered in light of the question of where the individual stands in relation to socially instituted obligations, and how these relate that person to individuals

affected by the particular social system. Recalling my "ongoing" reading of the general position in Rawls' first period, whereupon the potential scope of relevant issues could remain theoretically comprehensible in a broad sense, the methodological division of that setting into an OP and a WOS is one which cuts off many dimensions of concern. Consider, for example, the following observation Rawls makes when discussing the problem of "principles for individuals":

> Whereas all obligations are accounted for by the principle of fairness, there are many natural duties, positive and negative. I shall make no attempt to bring them under one principle. Admittedly this lack of unity runs the risk of putting too much strain on priority rules, but I shall have to leave this difficulty aside.(1971.b,114)

This risk merits brief discussion. In as much as part of the purpose of social institutions is that they function to define the obligations we have as persons who benefit from them, Rawls' principle of fairness "holds that a person is required to do his part as defined by the rules of an institution when two conditions are met: first, that the institution is just (or fair), that is it satisfies the two principles of justice; and second, one has voluntarily accepted the benefits of the arrangement or taken advantage of the opportunities it offers to further one's interests."(1971.b,112) Accordingly, the idea of conceiving justice "as" fairness is one meaning to connect it with our understanding of social obligations in a comprehensive fashion. As an articulation of the concept itself, the idea is that we may justify our moral insights to others (and ourselves) in terms of commonly agreed upon institutional procedures--in terms, that is, of those obligations we (hypothetically) freely undertake as concomitants of the benefits social agreement provides us.

But as the above noted admission by Rawls indicates, that same idea does not necessarily connect in a sufficient way with our "natural duties" as moral persons, i.e. those moral insights into our practical responsibilities which "apply to us without regard to our voluntary acts" (even when construed in hypothetical terms), and which "have no necessary connection with institutions or social practices".(1971.b,114) While fairness is an obligation, justice and mutual aid are examples of natural duty. It is therefore possible to have a natural duty of justice wholly independent of those limited practical obligations we incur (as if voluntarily) within any particular setting of fair social institutions--say, to persons not within that setting, or within it but not as participants, who are nonetheless affected by it. Consequently, the extent to which the idea of justice as fairness is articulated in terms of but a particular institutional setting is the extent to which it becomes possible that it may conflict with the natural duties we have as moral beings, including those of justice. In our own general and ongoing position as moral beings, from the perspective of our natural duties toward other individuals the generality of our institution-directed conception of justice ought therefore to be a proactive one. That is, the "limited scope" of cases to which it might prove to be sufficiently appropriate should not then be instituted as an excuse for our not restructuring it to meet new or separate cases. If this is accepted, such that the ideal for a just social structure must thereby be that its institutions are arranged so as to account (potentially) for everyone it affects, then the question is whether the theory behind the conception should initially become clear on principles of duty for

individuals or, instead, first define principles for institutional obligations and assume that these will be consistent in the end with individuals' natural duties. Rawls places priority on the latter alternative. Hence the risk, where the question becomes whether the extent to which justice as fairness coincides with our ongoing natural duties is sufficiently general. In terms of what Rawls calls "reflective equilibrium", the issue is how broad we are able to conceive the wider scope of the conception to be. The ideal limit of such broadness would be one where the answer to questions of justice does not preclude answers to questions of, say, mutual aid.

To connect obligations of fairness with the natural duty of justice, and thereby articulate a conception of justice which shows its specific relation to social institutions, Rawls characterizes POPs as agreeing upon "priority rules" that (provisionally) outline the order of importance by which separate dimensions of concern are to be weighed. This is done for the purposes of their categorizing the sequence of procedural deliberations. In terms of our own reflections on the matter, given that it has previously been stipulated that the account is directed at institutions, the priority rules of the justice as fairness framework predetermine that principles for institutions are to be given greater weight and therefore chosen before principles for individuals; the "risk of putting too much strain on priority rules" transfers into that of putting too much strain on individuals--on, that is, ourselves. In the everyday course of events one may, to be sure, attempt to articulate and act upon but an accidental dimension of natural duties of justice (eg. those occuring within our own nation-state) by establising

for them, in line with Rawls, the priority of a connection with obligations of fairness. However, if this dimension is but one dimension of institutional arrangement (being, itself, a dimension of concern to be distinguished from that we have for individuals directly), then to consider one's conception of justice as "completed" on the basis of that dimension alone would be to undercut the need to fulfill the natural duty of justice on other levels, not to mention purportedly distinct natural duties such as mutual aid as well. Fundamental moral contradictions would seem necessarily apparent. Because "natural duties are owed not only to definite individuals, say to those cooperating together in a particular social arrangement [i.e. within a given institutional dimension], but to persons generally"(1971.b,115), the priority rules used to construct conceptions of them "as" obligations of fairness ought (it would seem) to be wholly suspendable in cases where they cause these duties to conflict when they otherwise might not have, or where they cause the particular concept of duty at which they are directed to appear self-contradictory. Like that of mutual aid, a natural duty of justice may be owed to persons independent of any particular level of social association. Thus, a conception of justice that is constructed in an accord with priority rules which state that the arrangement of social institutions within an established sort of system (as opposed to an ideal type) is to be given preeminent consideration, especially where that is taken to be at but a particular level of human association, would likely run counter to other natural duties, if not the natural duty of justice itself.

The division of the general position into that of the OP and the

WOS will later be shown as initiating Rawls account into the full effect of this danger. In brief, it encourages an attitude by which we are to understand our natural duty of justice as primarily delimited by "just institutions that exist and apply to us", while undercutting central considerations involved in the more duty-like ongoing obligation "to further just arrangements not yet established".(1971.b,115) The importance of reserving an equal order of significance for "ongoing" deliberations about not yet established arrangements, where the connection between principles for institutions and principles for individuals as active moral agents becomes most pertinent, is thereby subverted for the purposes of committing ourselves once and for all to resolving something about the social "establishment": what it is we are to view (hypothetically) as an appropriate ideal for a morally static context, or as an ethic for social status quo.2 For Rawls, the something to be resolved concerns the choice of principles to govern the constitution and lesser institutions of a just nation-state. How his use of that particular level of human association is something which affects the practical significance of his entire account will become central to my critique. First, however, three examples of Rawls' second period of works will be considered so as to get a broader sense of the thoughts he was developing at this time. With the above discussion in mind, I will now turn to the synopses.

A. SYNOPSIS (1967 - 1978)

*** "Distributive Justice" (1973,. cf. 1967 & 1968)3

The chief concern in this article is to present a coherent perspective on the concept of justice, one that indicates how the formal logic of joint social activity may best be used to guarantee that the basic structure of society provides for an appropriate distribution of goods amongst its members: "A conception of justice is a set of principles for choosing between the social arrangements which determine this division and for underwriting a consensus as to the proper distributive shares."(319) It is argued that, in this respect, a social contract model is superior to that of utilitarianism (and others), since it attends to both the "perfect" and the "pure" conditions of inter-subjective choice rather than relying on probablistic speculations about objective (or discretely subjective) moral truth. "On the contract doctrine, then, the theory of justice, and indeed ethics itself, is part of the general theory of rational choice, a fact perfectly clear in its Kantian formulation."(321,m.e.) Given arguments found in earlier works, the veracity of Rawls' two principles of justice is to be assumed. Except for such changes of phrase as "participating in a practice" to that of "engaged in an institution", the statement of the principles is substantively unaltered:

> [1] each person engaged in an institution or affected by it has an equal right to the most extensive liberty compatible with a like liberty for all;...
> [2] inequalities as defined by the institutional structure or fostered by it are arbitrary unless it is reasonable to expect that they will work out to everyone's advantage and provided that the positions and offices to which they attach or from which they may be gained are open to all.(323)

Three major questions about these principles are addressed, as follow:

First: "how to interpret these principles so that they define a consistent and complete conception of justice." Three possibilities are considered: Hume's suggestion of a historically relevant benchmark, equivalent to the notion of progress out of a state of nature; the economic criterion of Pareto, according to which general patterns of expectation are given efficient form; and finally, those constraints which account for the perspective of least-advantaged citizens, captured in terms of Rawls' difference principle. It is the last of these which proves to be most successful. On the assumption that the first principle of justice already implies the general framework of a constitutional democracy, where there is "one class of equal citizens which defines a common status for all", and that "equal opportunity and fair competition" prevail, the first part of the second principle should be interpreted as focusing on economic and social differences made possible by the given society's basic structure.(cf.328) In relation to the life prospects of citizens, such inequalities are thought to be "chain-connected", i.e. "if an inequality raises the expectations of the lowest position, it raises the expectations of all positions in between"; they are also "close-knit", i.e. "it is impossible to raise (or lower) the expectation of any representative individual without raising (or lowering) the expectations of every other representative individual, and in particular, without affecting one way or the other that of the least fortunate."(330) The expectations to be addressed by the difference principle "are specified by the expected pattern of primary goods, that is things which rational persons may be presumed to want whatever else they want."(332) Of these, the most important is

self-respect--but "to make things more manageable", the analysis focuses on economic differences in income and wealth. It is thought to be easier, for the purpose of theory, to identify and represent least-advantaged persons in that way. On the further assumption that the first principle of justice already entails a free market system, and "that the analogy with games is relevant", it is demonstrated that possible alternative interpretations of the second principle based on natural liberty, liberal equality, or natural aristocracy, must eventually be transformed into interpretations based on democratic equality, wherein the difference principle is best satisfied--ergo the two principles of justice as well.4 And finally, it is indicated that the democratic interpretation of the difference principle relates to the principles of redress, fraternity, Kantian ends, mutual benefit, and social stability--these being typical members of the family of principles associated with the concept of justice.

Second: "whether it is possible to arrange the institutions of a constitutional democracy so that these principles are satisfied, at least approximately." Such will prove to be possible for either liberal socialist regimes or property-owning democracies, "provided the government regulates a free economy in a certain way."(346) By keeping markets competative, resources fully employed, property and wealth widely distributed over time, and by maintaining an appropriate social minimum, the formal conditions of proper regulation are made manifest. The basic structure of a model society is constructed to represent more fully the nature of these conditions. In terms of the first principle, securing fundamental freedom would require that the basic structure of

society is in accord with the principle of legality, such that "liberty of conscience and freedom of thought are taken for granted."(347) And based on the second principle, the regulation of social inequalities via economic institutions would require four general branches of government responsibility to be operative in the following way: allocation, by preventing unreasonable constellations of market power; stablization, by maintaining full employement; transfer, by establishing a minimum level of social welfare; and distribution, by correcting imbalances on an ongoing basis and generating revenue through tax, so as to raise the minimum level of social advantageness over time. Finally, the two principles of justice could be comprehensively satisfied within this model--being representative of an ideal total system of social institutions--by introducing the notion of a just savings principle, whereupon "ethically significant" general bounds within which justifiable social minimums must occur become apparent. This principle states that the "relevant expectation of the least advantaged is their long-term expectation extending over all generations; and hence over any period of time the economy must put aside the appropriate amount (possibly zero) of real capital accumulation."(352) As a consequence, unilateral giving to future generations is instituted as the primary manner by which, for example, the principle of reciprocity should be interpreted. Moreover, a formal conception regarding the role of least-advantaged persons is thereby clarified--one that assumes "the representative person in any generation required to save belongs to the lowest income class."(354) A special feature of this model-framework of just distribution is to be its use of "pure" procedural justice. In

comparison with "perfect" (arithmetical) or "imperfect" (probablistic) forms, pure procedure is described as being analogous to those formal conditions of fairness had in games of chance, upon which the gambled upon outcome is fair just by definition (assuming no one cheats, etc.). In such cases, the fairness of the procedure transfers directly into the outcome, no matter what the outcome may be. Accordingly, the account of organizing institutions so as to satisfy the principles of justice "is simply an elaboration of the familiar idea that economic rewards will be just once a perfectly competative price system is organized as a fair game."(357)

Third: "whether the conception of distributive shares which [the principles] define is compatible with common-sense notions of justice." It is granted that this is not an easy question to answer, since neither philosophic nor common-sense notions of justice are very precise. Furthermore, "a comparison is made difficult by our tendency in practice to adopt combinations of principles and precepts the consequences of which depend essentially upon how they are weighed; but the weighting may be undefined and allowed to vary with circumstances, and thus relies on the intuitive judgements which we are trying to systematize [and articulate]."(359) It is assumed, nonetheless, that there is (or ought to be) at least an intuitively reliable ranking of ways to weigh different conceptions, and therefore a way (or set of ways) which is better than the rest. Whether or not Rawls' particular presentation of contract doctrine is in fact that better way is left as an open question. Rather, given the ethos of a democratic society (assumed out of the first principle), the "main question perhaps is whether one is

prepared to accept the further definition of one's conception of right which the two principles represent."(361) As I will later demonstrate, this "further definition" becomes one which effectively excludes that conception from universal relevance.

*** "The Independence of Moral Theory" (1974.c)5

In many ways, this is perhaps the single-most important article for understanding the background methodological attitude of Rawls' works as a whole. In general, the article challenges the notion that the process of philosophical inquiry is preconditioned by a hierarchy of subjects. And most especially, the longstanding view that moral philosophy is particularly preconditioned is forcefully contested. Even where such conditioning might be granted, it is claimed that moral theory ought to be seen as for the most part independent of other philosophical issues. Moral philosophy's task is to comprehend all that is of possible philosophical interest about morality, whether this be purely speculative or self-evident. Moral theory, on the other hand, is not concerned with many otherwise philosophically interesting aspects of morality; it is instead restricted to "the study of substantive moral conceptions, that is, the study of how the basic notions of the right, the good, and moral worth may be arranged to form different moral structures."(5) Just as the philosophy of logic and mathematics remained critically underdeveloped prior to the analytic constfuction of predicate calculus and set theory, so too will moral philosophy stagnate until certain basic moral structures and the foundations of moral psychology are accounted for. Three sorts of more general philosophical concerns are analyzed as examples of that from which moral theory is

(for the purposes of "theory") largely independent.

1. Epistemology: It is observed that, whatever the deeper reasons are, "one thing is certain: people profess and appear to be influenced by moral conceptions."(7) To study those conceptions themselves, all theoretical issues relating to moral truth must be bracketed out; instead, the focus should be on which formal conditions suitably define what it is that best reflects and explains persons' particular substantive moral conceptions. The moral theorist is the "observer" of others' conceptions, considering them in the light of "the main conceptions found in the tradition of moral philosophy." By the process of wide reflective equilibrium,6 all levels of generality relevant to competing conceptions are considered, out of which the most coherent and comprehensive scheme of convictions on the matter may be arrived at. While it is not necessarily to be presumed that there is only one correct moral conception, between whichever prove to be the most acceptable ones the theorist would enquire into whether "they may have some significant first principles in common, which define absolute morality, so to speak, by analogy with absolute geometry", the main concern being "whether these principles are rich enough to afford a constructive basis of mutual accommodation."(9,m.e.) This is not an issue of describing justified true belief; rather, it is but one of moral justification itself, given the intuitive context of beliefs that we already experience as beings with moral insight. The operative clarification here relates to that which was in the first period described by the notion of a "procedure of justifcation stated in reverse".

2. Theory of Meaning: It is forwarded that "from the standpoint of moral theory, considerations of meaning can at best provide certain necessary so-called formal conditions on the first principles of moral conceptions."(10) In Rawls' case, these conditions include generality (neutral terminology), universality ("all" moral persons), ordering (of conflicting claims), finality (nonpermeable), and publicity (no hidden agendas).7 But what is of first order importance is how coherent the resulting whole theory is, and not specific issues of meaning. Two cases are considered: ordering and publicity. In regard to ordering of the family of principles (cf. priority rules), while it is clear that issues of substantive meaning are always relevant, only moral theory can effectively contrast different moral conceptions so as to determine what is the most appropriate ordering condition. Furthermore, the problem of determining what logical properties ordering should have depends, for example, on the range of cases to which the moral conception is expected to apply (eg. to questions of the justice of actions, ...or to such questions as they occur within the borders of a nation-state). This is a kind of determination theories of meaning must already presuppose--only moral theory itself is capable of addressing those logically prior questions. A similar analysis is given to the formal condition of publicity, i.e. the idea that the consequences of proposed principles being publicly recognized must be provided for by any acceptable account. Here, technicalities of meaning are not so important as are the respective primordial intuitions provoked by alternative conceptual models of publicity, or what Rawls now calls well-ordered societies: "The comparative study of the well-ordered societies is, I believe, the

central theoretical endeavor of moral theory: it presupposes a grasp of the various moral structures and their relation to our moral sensibility and natural inclinations."(13)8 If we accept that this presupposition is warranted, then deeper issues of meaning need not be entered into, at least for the first approximate purposes of grounding the description of moral theory. Again, the relation is to that which was earlier characterized as reverse-justification.

3. Philosophy of Mind: Taking the problem of personal identity as the relevant example from this area, three general points are made. First, conclusions about personal identity do not in and of themselves entail accepting one or another moral conception. Second, each moral conception tends to tailor and interpret the very notions of "person" and "identity" differently--only moral theory can explain these variations in a fully relevant way. Third, any moral conception's actual feasibility is much more an issue of psychology and social theory, and of our manifest considerations about alternate models of well-ordered societies. Whatever the correct theory of personal identity is, we are left with the same day to day problems. Now while moral theory does use criteria of identity (eg. conditions of "citizenship"), these are determined solely according to the respective analytic constructions of each model society, in conjunction with how we normally think about everyday problems; that is, they do not depend upon such speculative metaphysical notions as the concept "I". On this basis, it is illustrated how comparing criteria of identity (eg. between classical utilitarianism and Kantian theory) becomes meaningful only through consideration of the moral conceptions and well-ordered

societies to which they apply. The Kantian conception employed by Rawls is seen to rely on a stronger criterion, i.e. one which is temporally comprehensive, tending to capture lifetimes rather than more discrete periods of experience. But in any case, what decides the relative appropriateness of the criteria "is the content of the moral view and its roots in human sensibility."(20) That is, when we consider a moral view within the framework of reverse-justification, the appropriateness of its criteria is more easily related to our own intuitions on the matter.

In the concluding section, it is admitted that the notion of independence between and within philosophical subjects should not be overly emphasized.9 Rather, the more basic point has been that while all these subjects share a certain mutual dependence, each should nonetheless be respected as independent (within limits) in their own right, as having their own relatively unique dimensions of problems: "The fault of methodological hierarchies is not unlike the fault of political and social ones: they lead to a distortion of vision with a consequent misdirection of effort." In the previous chapter, ideological analysis was characterized as succumbing to this fault.

*** "The Basic Structure as Subject" (1978)10

The objective in this work is to explain why the basic structure of society is the first subject of justice by showing how, on a contractarian model of it, special features are evident. Unlike the "completely general theory" approach characteristic of other conceptions (eg. utilitarianism and libertarianism), categorical and/or metaphysical distinctions are not meant to be entered into; instead, a choice from

amongst traditional models of social form is to be made which, it is to be imagined, does not function as if supervening all social forms or actions of individuals. It is but a rational preference stemming from the articulation of one's own intuitive moral sense, such that it could be upheld even in conjunction with alternative preferences chosen by others, whatever they may be. That is, the social contractarian choice concerns the combination of a perfectly and a purely intersubjective social perspective. The problem it seeks to solve is one of cohesion between all levels of generality to which persons typically direct their moral convictions, such that the "underlying unity is provided by the idea that free and equal moral persons are to construct reasonable and helpful guidelines for moral reflection in view of their need for such organizing principles and the role in social life that these principles and their corresponding subjects are presumed to have."(50) To this end, four general suggestions are explicated as to why we might view a society's basic structure in contractual terms.

First: "that once we think of the parties to a social contract as free and equal (and rational) moral persons, then there are strong reasons for taking the basic structure as the primary subject." Two aspects to this hypothesis are discussed. [1] On the assumption that the objective nature of social circumstances and personal relationships ought to be recognized as something that develops over time through voluntary agreements that are fair and secure, it is apparent that background conditions must be available which make stable agreements possible, and which therefore override social trends or historical contingencies. Local circumstances are a poor basis for explaining that

background--as are most other sources of "norms"--for these tend to transform through time without any consistent or principled order. What is needed is an account of that which preserves background justice. The mere codification of rules cannot do the job either, since "the rules applying to agreements are, after all, practical and public directives, and not mathematical functions which may be as complicated as one likes."(54) To be most practical, and least complicated, social rules must themselves be directed by a more basic force--the social structure itself must be able to adjust them as the current of circumstances requires. [2] Having thus accounted for the objective situation of social activity, the basic structure's relevance to the subjectivity of individual character and interest is explained. First, "everyone recognizes that the institutional form of society affects its members and determines in large part the kind of persons they want to be as well as the kind of persons they are."(55,m.e.) Second, beyond the natural range of abilities persons are born with, it seems clear that the basic structure they are born into directly influences how these abilities are nurtured. And finally, for reasons such as the need for incentives, the basic structure tends to permit and serve as the source for justifying inequalities in life prospects. Such inequalities appear in roughly three ways: social starting points, natural advantages, and historical contingencies. If the basic structure is not attended to, these inequalities may have drastic cumulative consequences over time. Thus, to provide for persons as free and equal moral beings, it is appropriate that the basic structure of society be given the paramount significance that a social contractarian perspective allows.

Second: "that in view of the distinctive features of this struture, the initial agreement, and the conditions under which it is made, must be understood in a special way that dis*inguishes this agreement from all others." The first general reason for this concerns how the basic structure perspective requires that construction of the principles be hypothetical and non-historical. By leaving aside "the problem of justice between nations", it may safely be assumed that "the basic structure is the all-inclusive social system that determines background justice."(57) A "fair situation" thereby becomes one which minimizes the negative effect of contingencies internal to the (hypothetically) closed social system. Consequently, the need for imagining a veil of ignorance concerning knowledge of contingent (actual) circumstances is apparent, such that this minimization is valid from a socially comprehensive general perspective. The interpretation must also be atemporal, via a "thick" veil of ignorance. Nonetheless, to avoid historical comparisons a "present-time of entry" interpretation is to be preferred.11

The second general reason there are distinctive features about the choice of a basic structure stems from the uniqueness of the initial agreement itself, relative to those particular sorts of agreement made within it (as a closed system). The level of agreement relevant to the notion of a social contract is different in that, 1) membership in the respective society is always already a given, 2) we can in no meaningful way know ourselves as if born elsewhere than we were, and 3) society has no ends or ordering of ends in the way associations or individuals do. Consequent to these three basic facts, i) we cannot enter into

comparative considerations about 'other' societies, ii) we cannot give consideration to persons who are not already fellow citizens, iii) as individuals, we cannot in this more fundamental instance isolate or agree to any particular social ends. Finally, in terms specific to the original contractual position, a) such ultra-societal practices as emigration [let alone immigration] could not be considered as necessary basic liberties (cf.61), b) the veil of ignorance simply reflects our personal form as it was prior to its socially nurtured formation, and c) unless principles can be adopted in accordance with the constraints of an "original position" setting, there are no sufficiently justified grounds whatsoever for conceiving of and/or appealing to common social ends.

Third: observing the first and second "allows a Kantian view to take account of the profoundly social nature of human relationships." There are three aspects to this claim. [1] There is only one relevant social ground that we may ever meaningfully put in question--the manifest one. So the difference principle is to be accepted (and subsequently observed) for the reason that it remains true to the actual social circumstances of persons; and not to what those circumstances might otherwise have been if a person were not already a member of the social reality he/she is in fact found to be in. While, for instance, a "state of nature" might be a valid hypothetical description of what would flow from non-agreement in the original position, general egoism and its consequences are always to be considered the least preferable alternative; as representative of a pre-moral and never more than hypothetical state, such would have no intelligible connection with the

difference principle once this is instituted into (our) social reality. [2] The basic structure perspective holds that individuals are (in principle) always of equal moral worth to society: the ranges of worth to associations that contributing individuals are awarded has no corollary in terms of individuals' purely abstract relation to the basic structure of society. "As" members within that basic structure, they are of equal moral worth. [3] The Kantian conception of persons as free and equal moral beings is, on this account, given its appropriately pure "institutional expression". As moral beings with a conception of the good and a sense of justice, citizens are considered "free" to the extent that, a) their highest order interest is that of securing autonomous grounds by which to regulate all their other interests, and b) they are consequently allowed to be fully responsible for those interests, which includes revising them in line with social realities. On a social contract account, the basic structure perspective grounds those considerations by institutionalizing "equal freedom" into the very fabric (or at least a large swatch) of moral persons' social world. Rather than viewing such persons "as those whose social relations answer to the very principles that would be agreed to in the original positon"(63), their equal freedom is instead to be found within the structure of society itself--i.e. as the public forum in-which they have the freedom to be fully moral and, on that basis, the freedom to proceed in the most reasonable and autonomous manner in agreeing to be participants in more particular social relations on their own. As largely determined by society, a person's public identity is to be analyzed in the pure terms of society. How "pure" a closed system is,

however, will be discussed later on.

Fourth: "that while a large element of pure procedural justice transfers to the principles of justice, these principles must nonetheless embody an ideal form for the basic structure in the light of which ongoing institutional processes are to be constrained and the accumulated results of individual transactions continually adjusted." Given that persons in the original position are aware of themselves as representing free and equal moral persons, "the obvious starting point is for them to suppose that all social primary goods, including income and wealth, should be equal: everyone should have an equal share."(64) However, agreement on the ideal good of a perfectly equal division cannot be the end point of their deliberations; concessions to human nature require that inequalities be permitted by, and justified within, the basic structure for the "pure" (fair-by-definition result) purposes of organization and efficiency. To retain the intuitive appeal of the equal division notion, it would be agreed that least-advantaged persons retain a "veto" in matters of determining what are permissible inequalities. In this respect, the difference principle is to be interpreted in accordance with four considerations. [1] Pure procedural justice must in principle always be attended to, such that "if it is asked in the abstract whether one distribution of a given stack of things to definite individuals with known desires and preferences is more just than another, then there is simply no answer to the question." [2] All principles of justice apply to "the main public principles and policies" concerning "familiar everyday standards and precepts." Because of this, there cannot be any "unannounced and unpredictable

interferences with citizens' expectations and acquisitions."(65) [3] Save for the pure notion of which particular conceptions of the good are "permissible" for individuals to have, the difference principle does not serve to prejudice the observable pattern of goods in any particular direction or at any particular time. Rather, we as moral persons "have a right to our natural abilities and a right to whatever we become entitled to by taking part in a fair social process." [4] As an ideal form of reference for ongoing basic structural reform, the principles of justice act at all times to ensure that the distribution of any and/or all primary goods keeps within certain bounds. "Thus, even in a well-ordered society, adjustments in the basic structure are always necessary."(66) ...But a key question remains: can there be adjustments out of it?

In the final section of the article, Rawls shows how the basic structure perspective makes possible a Kantian response to Hegel's charge that "the doctrine of social contract was an illegitimate and uncritical extension of ideas at home in and limited to (what he called) civil society", and that it "failed to recognize the social nature of human beings and depended on attributing to them certain fixed natural abilities and specific desires independent from, and for theoretical purposes prior to, society."(67) Hobbesian, Lockean, and libertarian objections are also briefly discussed. In the third period, the strength of Rawls' Kantian rejoinders will increase through his development of the notion of "culturally intuitive basic ideas". In the upcoming explication, however, a systematic crack in the Kantian basic structure will become evident. It is that to which we will now turn.

B. EXPLICATION

The vast majority of commentary and critique on Rawls' theory has been and continues to be directed at this second period, and it is clearly the one to which his thought is most commonly associated. Similarly, the larger part of the "Rawls industry"12 would appear one way or other to be directed at those aspects arising out of the "difference principle" interpretation of his second principle, and (in conjunction, of course, with the specifications of his OP) this has been taken as the single most important development of that originally offered in the first period.13 This development is consistent, for example, with the fact that in the "Distributive Justice" articles, Rawls proceeds from assumptions about the first principle (that it entails a constitutional democratic basic structure, a free market system, etc.) and deals almost exclusively with the issue of interpreting the second. While my analysis of this period will have a very definite bearing on those issues, and will draw upon some of them, I will concern myself primarily with the context of Rawls first principle. For it is a comparatively unargued for change in the statement of that principle which allows Rawls' difference principle interpretation to proceed. As I indicated earlier on, the methodological issue I will be concerned with is the sort of effects which flow from Rawls' division of characteristics proper to the general position, the unity of which allowed for my "ongoing" interpretation of it, into the separate realms of his OP and WOS. The substantive issue will be that of how justice as fairness tends to fall short in respecting the essence of what Rawls variously characterizes as natural moral duty and as the "complete" moral feeling

of principle guilt: specifically, that we be concerned with the plight of human individuals over and above our concern for obligations incurred within particular social systems. These two general issues will be given thematic expression under the respective headings of comprehension and ideation, and the question of our moral relations with persons "affected by" social practice will remain as the critical angle of analysis. First, however, I will present the particular change which occurs in terms of the first principle.

To recall, the original statement of the first principle read as follows:

> each person participating in a practice, or affected by it, has an equal right to the most extensive liberty compatible with a like liberty for all.

In as much as my "ongoing" reading of the general position was consistent with Rawls' own account, it remained the case that the inclusion in principle of a concern for persons merely "affected by" social practice allowed us to understand how the account might interconnect itself along all the various institutional levels of human association. All that needed to be imagined was that there are persons within the hypothetical social system who belonged to associations where there was a common interest in requiring their society to respect persons who are in some sense strangers to its practices; and also, that there are persons either treated as or who in fact were strangers to that system, even while they might be affected by its practices. Such a possibility, even if it was not explicitly presented by Rawls in that form,14 does mirror what in fact is the case in our own social reality. Whether or not we ourselves are members of such associations, or

actively share the interests they represent, it ought to be conceeded that their inclusion is warranted when the task is "representing the actual quality of relations between persons as defined by practices accepted as just."(1958,178) For example, to the limited extent that they tolerate current immigration, disabled persons, or foreign policies, there are numerous non-governmental organizations and otherwise concerned individuals who would not accept a reconstruction of society (granting even that they accept its being viewed "as" the state) based on premises which only nurture those recidivistically historical conceptions of it as a closed-system. And if it may also be conceeded that such groups and individuals are perhaps the paradigmatic examples of persons expressing "a willingness to work for (or at least not oppose) the setting up of just institutions, and for the reform of existing ones when justice requires it"(1963,292; 1971.b,474), to exclude the interests they represent from those represented in the general position would be seriously to misrepresent the actual quality of relations between persons in terms of how it is presently emerging.

The fact is that there are moral "emergencies" of both historical and current description which, to be addressed, require persons who are prepared to work on and beyond the borders of the established order. While ideal moral theory might be permitted to set aside the problem of solving the many issues such persons devote themselves to, it should not be permitted also to undercute the real (let alone ideal) conditions which make possible such attempts in the first place. To acknowledge the conditions which make it possible for individuals to be active moral agents, in particular by their relating themselves to those affected by

their society's practices, would seem to be of first-order importance in an ideal theory which assumes, even if somewhat separately, that "moral attitudes are no longer connected solely with the well-being and approval of particular individuals or groups, but are shaped by a conception of right chosen irrespective of these contingencies [...and which] display an independence from the accidental circumstances of our world...".(1971.b,475)

The initial statement of the first principle remained substantively unaltered in the 1967 and 1968 "Distributive Justice" articles (as well as in their recompiled joint publication in 1973). Indeed, as late as 1971 Rawls retained the explicit inclusion of the "affected by" clause.15 But in that same year, in his major work, Rawls' full statement of the first principle becomes:

> Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
>
> Priority Rule: The principles of justice are to be ranked in lexical ordering and therefore liberty can be restricted only for the sake of liberty. There are two cases:
> a) a less extensive liberty must strengthen the total system of liberty shared by all, and
> b) a less than equal liberty must be acceptable to those citizens with the lesser liberty.(1971.b,250;also 302)

The relevance of appending this "priority rule" to the statement of the principle itself was touched on at the outset of this chapter.16 Because the function of a priority rule is to weight how we are first and foremost to form and interpret the principle, it effectively becomes part of what the principle actually means. In the case of Rawls' first principle of justice, the effect of its priority rule interpretation is not relevant merely to the rank ordering of subsequent principles, but

also to notable aspects of the first principle in and of itself. First, the extent of an individual's liberty is now set in terms of how it affects the strength of a "total system" of liberty shared by "all". Second, "all" are conceived to be "citizens" of that system, such that individuals with the lesser liberty within that system are those to whom the system itself must account--not, that is, persons merely "affected by" it but persons who are already officially sanctioned participants. At minimum, this makes it all the more ambiguous as to how strangers' advocates could convince others on the basis of an appeal to the principle.

With respect to the first point, the assumption is that the notion of a total system represents a possible context of social practice which is sufficiently general for connecting obligations of fairness with our natural duty of justice. In as much as something on the order of a McLuhanesque "global village" represents the most reasonable understanding of what in fact is presently the total system of human association, such that there is an open actual possibility (remote as it might be) in terms of our having a natural duty of justice, and other natural duties, toward virtually any individual person to be found on the earth--let alone in terms of our social practices having already affected them--it would seem on the face of it that the single possible Ideal total system would have to be a globally encompassing one.17 Likewise, the notion of "liberty" itself would have to be acknowledged as a moral prerogative which (ideally) all individuals equally possess, as their prima facie Right which is to be respected simply due to their being human--the most basic ideal ground, in other words, of their claim

as individuals to any human rights whatsoever. "All" would essentially (at least ideally) have to refer to all human beings.

However, in the case of the second point, the concept of "citizenship" is employed to adjust the notion of "all". While one might strain the meaning of this level of membership (as I did in the first chapter) into the notion of one's being a "citizen of the world", such an interpretation would make it a wholly redundant idea. Simply being a human already implies such membership. Indeed, within the context of the first principle it should be reasonable to presume that the whole notion of "membership" is misplaced. Membership is the lowest common denominator of "offices" (designations of participation) and, as such, ought instead to be seen as a concern to be left to Rawls' second principle, through its principle of fair equality of opportunity.18 And yet, the inclusion of the term "citizen" in the first principle's priority rule is more obviously an indication that we are to interpret it as applying first of all to the institutional system of that particular social arrangement known as the sovereign state. Like "nationals", or "subjects", citizens are to be distinguished from other human beings by the fact that they share the privilege of membership (officially sanctioned participation) in, and are entitled to the expressed protection of, a political entity with extensive powers of both coercion and facility. The ideal structure of the state is traditionally conceived to be one which maximizes its power both to facilitate the interests (participation) of its citizens and, correlatively, to coerce (affect) non-citizens when such is in its citizens' interest.

The insufficiency of relying upon the above as an ideal becomes apparent in two ways. First, it makes possible in principle the justification of sanctions which deny others, whether as groups or as individuals, both their interests and their basic moral status as human beings simply on the ground that they are not citizens. And second, even in those cases where such sanctions would contradict the interests of citizens, who, as moral beings with a sense of justice, might just happen to be interested in the welfare of other humans, the infrastructure itself nevertheless remains always an exclusionary one: it is by definition always ultimately insufficient as an institutional device for facilitating the morally informed interests of its citizens, assuming that among them there are actually (and surely ideally) persons sensitive to natural moral duties not bound by the arbitrariness of political borders. In fact, there persists a state-interest not unlike the earlier prima facie notion of family self-interest which, prior to an authentic (ongoing) general position, psychologically discourages individuals from becoming too concerned with the circumstances of non-members. Thus, obligations to the state come in principle to override the imperativeness of an individual's natural duties. As by definition systematically insufficient, the notion of a sovereign state ought at the very best be but an expressly provisional theoretical example, a structurally temporary framework by which (for sheerly expository purposes) to connect institutional obligations with natural duties. In the same manner, Rawls' statement of the priority rule for the first principle ought, given these intuitively basic reflections, to be recognized as at very least eventually in need of

being restated appropriately. It is to the peril of his account's intuitive appeal that Rawls has not gone on to do so. I will now strengthen the force of the foregoing by analyzing it in terms of the methodological issue of what level of comprehension is encouraged by Rawls' OP/WOS distinction, and then in terms of the substantive issue of what our ideation of moral issues would be like if we were psychologically committed to but Rawls' provisional version of justice as fairness.

i) Comprehension

Under this theme, analysis of the problem will be directed in a very general fashion toward Rawls' representations of the OP, POPs, and the WOS as devices through which we might intellectually grasp the most reasonable way to structure our conception of justice. This issue is to be distinguished from that taken up under the second theme, "ideation", in that the latter will concern the manner in which our capacity for ethical thought--that is, for forming or entertaining moral ideas in the first place--would have to be imagined as limited in order to accept Rawls' account as psychologically sound. Both themes share in common a concern for how much might be understood as included under Rawls' "pure" procedure and his two principles of justice. For the present, the issue of inclusion will be viewed in terms of the structure of thought that the OP represents, as a device by which we might clarify our presently unclear way of thinking about justice.

In contrast to the general position, Rawls' OP is to suggest to us the conditions which would remain after undergoing a pure and complete abstraction from social activity. There is no ongoing established

society present in the situation of the OP, but only purely abstract moral persons reasoning out principles of justice while also choosing the most reasonable form of WOS. This they accomplish according to their perfectly rational capacity to do so, in conjunction with the reasonableness of their "pure" moral powers: namely, to have the purely abstract awareness of a self-interested concern for a conception of the good (or "rational life-plan"), and to have an abstractly effective sense of justice. The OP itself is forwarded as being the most reasonable setting in which their coming to rational agreement may occur. That is, as a perfectly symmetrical (fair) arrangement, it is one which gives POPs a view to neither the society for which they are choosing principles and a basic structural form, nor to the personal and social characteristics they would have in that society; instead, their comprehension of such morally arbitrary matters is to be completely darkened by a "veil of ignorance". Nonetheless they do (supposedly) know what it is they are in the OP to accomplish, and they proceed accordingly. All this should be familiar enough already to anyone who has read Rawls' major work. I will therefore cut directly to the heart of the matter, which balances on what in fact it is that they know they are there to accomplish.

In the general position, persons were "there" due to the established fact that they had various and sundry complaints about the existing social structure. Because they were imagined as having actual complaints, and because (at least in the "ongoing" rendering) these complaints might even include issues pertaining to how that system facilitated human association on levels beyond that of the more locally

"established" system itself, the participants in the general position were not necessarily to be conceived as knowing they were limiting their deliberations to a particularly "total" system. Rather, they were simply addressing the system they knew in and as much as they knew it at all, which could include full knowledge that it was not a total one. Indeed, for some the knowledge might have been that whatever totalitarian dimensions the established system might exhibit, the essence of these aspects ought to be discounted in the future in favour of establishing a more open system. In the situation of the OP, however, the necessary conditions for generating the sort of inductions that would follow from such knowledge as that are ipso facto excluded. The basic structure of the state is not only the subject of their deliberations, it also marks the objective horizon of their practical reasoning capacity.

While throughout this period it remains at times rather ambiguous as to what extent we are to imagine POPs as necessarily deliberating on principles for but a single, isolate society--and in particular for but that of a nation-state--it is certain that for Rawls this level of deliberation does now take place one way or another. Just as we are henceforth to "think of a human society as a more or less self-sufficient association regulated by a common conception of justice aimed at advancing the good of its members", and further, that a "conception of justice is a set of principles for choosing between the social arrangements which determine [...the division of socially acquired benefits, or 'goods', amongst members] and for underwriting a consensus as to the proper distributive shares"(1973,319), POPs are to think in

terms of principles for a closed social system. It is supposed that we are able to do this by virtue of the outright stipulation that we permit ourselves, as if by fiat, to trim off and discard such problems as that of justice between nations; POPs are to be able to do so because, I suppose, a notion of justice involving more than one WOS might appear to them as something of a diplopic double-thought. Not only would they have to focus on at least two otherwise separate orders of well-orderedness at the same time, but the notion of there truly being a single WOS at all would seem to contradict the need to consider inter-WOS justice--so long, of course, as they would know that they are to be granted the full office of membership in the single WOS. Either that, or they might as well just deliberate on a well-ordered world (WOW?) in the first instance.19 In any event, Rawls presents them as applying their considerations to the "basic structure" of a constitutional democratic nation state, ...at least (we are told) for the provisional purposes of outlining the general construction supporting his conception of justice as fairness.

It is important to remain aware that Rawls conceives the basic structure of society as something which is meant always to be nothing more than a hypothetical construct. After all, lurking behind the provisional methodologies that are being employed to simplify matters, the fact of the matter is that "the analysis is pointed toward a universal moral idea."(1971.a,323) He does not want to suggest that the basic structure is a phenomenon of metaphysical import, such as a **Wirtshaftsgeist** which enters political society on the advent of its birth as a nation. Nor does he want it to represent an empirical

hypothesis about the actual structure of existing nation-states. Rather, it is but part of his general theorem and is to be accepted or rejected along with the theory as a whole. As for its specifically being ascribed to but the limits of a single nation-state rather than to some other level of human association, Rawls asks us to view him as committing himself only to the following:

> [...] as a first approximation, the problem of social justice concerns the basic structure as a closed background system. To start with the society of nations would seem merely to push one step further back the task of finding a theory of background justice. At some level there must exist a closed background system, and it is this subject for which we want a theory. We are better prepared to take up this problem for a society (illustrated by nations) conceived as a more or less self-sufficient scheme of social cooperation and as possessing a more or less complete culture. If we are successful in the case of a society, we can try to extend and to adjust our initial theory as further inquiry requires.(1978,70n.8,m.e.)

In other words, by conceiving a "nation" (primarily a cultural entity) and a "sovereign state" (a legal/political/economic entity) as a mutually inclusive and inextricably joined set of structural-functional relations, we are instancing a notion of human association (society) as a self-contained system. The wholly unargued for assumption in all of this concerns the operapt idea that at "some level" there "must" exist a "closed background system".20 Such a claim is the ultimate rationale for the imaginary persons being abstracted out of the general position and into the situation of the OP. For in the earlier position, there was no consistent way of comprehending any reliable containment of the concern--whether in principle alone or among certain associations--for persons merely "affected by" social practices. Thus, there was no rational basis for conceiving of an ultimate level of social status quo, and analysis would have continued to be concerned more with an ideal

which is appropriate to the "ongoing" dimension. But once they are beamed into the OP, where it is blankly stipulated that POPs are mutually concerned simply about the (closed) structure of a WOS, the many open-ended issues relating to how the principles are to be interpreted and the procedure applied are cut off at their base.

As a "pure" situation akin to "games of chance", the fairness that is now supposed to transfer directly from procedure to result can be imagined as pure, if it can at all, only from the perspective of those given the opportunity to be dealt in--and, perhaps, also those who are more or less directly associated with players who are prepared to play their hand for them. In that sense, the exclusivity of knowledge about there even being (or having been) an OP determination of "background" justice--let alone the chance of being (or having been) represented within it--effects the danger of making that determination one to be associated more with a device for setting up a "back room" game of craps. Much like being in a Speak Easy--the prohibitions in this case being those demanded by a more universal context of justice--a WOS determined by POPs would be one where the terms for opening membership are not easily spoken. For there can be no effective representation of strangers' rights advocates, let alone of strangers themselves, in the OP; even, that is, as an unbeknownst representation, since a WOS conception simply has no strangers to advocate rights about.

And yet, rather more similar to the ongoing general position, the foremost known reason POPs are in the situation of the OP is (ideally) that of their agreeing upon "a set of principles, general in form and universal in application, that is to be publicly recognized as a final

court of appeal for ordering the conflicting claims of moral persons."(1971.b,135) As something quite distinct, however, from an ongoing social situation, it is also known that there is to be a very definite end to the POPs deliberations on the abstractly substantive meaning of the principles. But even in the face of this condition it becomes apparent, once again unlike the general position, that in our own process of conceiving the OP POPs can be conceived as giving the whole procedure itself a trial run. Alternatively put, POPs can undergo what is essentially a "thought experiment" of their own, where: procedurally the principles' generality is in a form appropriate to "full and active participants in society", and not those merely "affected by"; its universality is applicable to persons "directly or indirectly associated together over the course of a whole life", and not those who are dis-associated as a matter of practice; its public recognition is based on the self-interest of those who have "physical needs and psychological capacities within some normal range", whereupon issues such as "the problem of special health care and how to treat the mentally defective are laid aside"(cf.1978,70n.9). But even granting all that, such principles could not quite yet constitute a final court of appeal by which to order WOS citizens' conflicting claims. This is so not simply because POPs have delt with a mere trial run, but more essentially due to the fact that the full condition of finality requires the account's first reconnecting itself to what were left aside as ongoing issues, implying as they do ever higher standards. Or as Rawls writes,

> The parties are to assess the system of principles as the final court of appeal in practical reasoning. There are no higher

> standards to which arguments in support of claims can be addressed; reasoning successfully from these principles is conclusive. If we think in terms of the fully general theory which has principles for all the virtues [cf. mutual aid], then such a theory specifies the totality of relevant considerations and their appropriate weights, and its requirements are decisive. They override the demands of law and custom, and of social rules generally. [...] The complete scheme is final in that when the course of practical reasoning it defines has reached its conclusion, the question is settled. The claims of existing social arrangements and of self-interest have been duly allowed for. We cannot at the end count them a second time because we do not like the result.(1971.b,135,m.e.)

That is, we cannot run another trial. As they stand, however, the principles and procedure do not relate to the claims of moral persons per se, but only to physically and psychologically "normal" self-interested individuals who are also full and active members within a specifically confined ethical playing field.

So what are we to imagine POPs doing with their experimental agreement? Do they beam into their mutually (but provisionally) agreed upon WOS with the possibility of being persons in need of special health or mental care, etc, such that the trial run might be tested directly, and somehow subseqently revised in an OP which is now informed with the fact that individuals about whom it is the ruling society's practice to regard as "abnormal" do not fare as well under principles structured for the stipulated notion of "normal" moral persons? Or are the POPs themselves assured to appear in the provisional WOS as the sort of persons who actually received a precedent of representation in the trial? If the former, the knowledge gained by the experiment was surely but a tautology, so the experiment itself would have been superfluous. And if the latter, there nevertheless would have to be something already present in the normal moral psychology of persons in a WOS which would

allow them to care enough about those who are nonetheless "put aside", otherwise there would be no motivation for the respective persons to leave the comfortable result of their experiment and re-enter the OP--especially if, by doing so, the possibility would be that they might subsequently re-emerge as "abnormal" persons after the second go-around. To stipulate that even if this is so, they must re-enter would seem to be over-reving the **deus ex machina**, already labouring as it is to generate sufficient power for holding off questions of justice beyond those of the state structure. But if there must, therefore, be the necessary sort of caring present in what we are to consider as WOS citizens' "normal" moral psychology, it should have been represented in the original description of POPs' purely abstract moral powers, perhaps in terms appropriate to a sense of mutual aid. To give POPs the capacity for such a moral power (if, in fact, such is even meaningfully different at this level from the sense of justice itself) would be permissible in as much as this would be a condition for their continuing on to arrive at the most reasonable (as opposed to most instrumental) agreement possible. In that case, the "first approximation" version of the OP would again have been wholly unnecessary.

What, then, are "we" to comprehend out of Rawls' purportedly provisional account? Perhaps that while a closed-systems approach might be either self-confirming or self-defeating, it is clearly not self-explaining? ...that, instead, to be able to promote comprehension of the most reasonable conception of justice, the construction must be allowed the conditions by which to admit the "other" into its framework in the first place, say on terms such as mutual aid, rather than relying

on that with which one is in a self-interested sense already familiar or which one is unreflectively comfortable with as normal? Might there be an essential connection between the natural duties of justice and, say, those of mutual aid, which must first be comprehended and respected before an abstracted and otherwise isolate conception of justice can be reasonably constructed? To expand on these concerns I will now turn to the second explicatory theme.

ii) Ideation

While it is a point that may often be lost in the architectonic maze of his systems approach to the matter, one must keep in mind that Rawls is not interested primarily in giving us a blueprint for a just society. Rather, he is offering us what is essentially a structuralist rendering of how we may, as the individuals we in fact are, come on our own to articulate a conception of justice to ourselves. Our chances of articulating it to others, or our actively implementing it into the actual institutional structure of our own society (cf. "to further just arrangements not yet established"), is not the immediate concern. The immediate concern is rather the "theoretical" one of learning how to think about just social practice, which for the purposes of his ideal theory is to be distinguished from the problem of directly effecting practical justice. For Rawls, even while he is theorizing on practice, there remains a real sense in which theory precedes practice. Accordingly, if we might only suspend our ongoing practical concern for moral issues not directly entertained by the structure of his theory, and "come to know" the concept of justice in line with his general articulation of it, the hope is that we would be in a better position as

individuals to understand our natural duties of justice as these arise. But in as much as we have other types of natural duties as well, and other natural duties of justice that seem **prima facie** to be unaccounted for by Rawls, the question becomes "how" we are to entertain even the ideal sense of the ideas he is offering us.

The procedure of "wide reflective equilibrium" is to be that by which we test Rawls' conception of justice (and any other) against those moral positions we ourselves have as individuals--positions which we view as defining our very personhood as moral beings. Rather than a procedure where "one is to be presented with only those descriptions which more or less match one's existing judgements except for minor discrepancies," Rawls defines the sort of reflective equilibrium that is to be relevant to his theory as being wide--one directed at our being "presented with all possible descriptions to which one might plausibly conform one's judgements together with all relevant philosophical arguments for them."(1971.b,49) To approximate this ideally reflective situation, Rawls' account is to express itself in the light of "the conceptions of justice known to us through the tradition of moral philosophy and any further ones that occur to us". In a wide reflective equilibrium that is also what I refered earlier to as "broad", these would include conceptions that deal with the connections to be found between justice and other natural duties such as mutual aid. But as it turns out, the only traditional or further conceptions which justice as fairness goes on to entertain are those that more or less match its judgements (except for minor discrepancies) on very fundamental matters.21 One of these matters, which the ongoing general position was

much less committed to, is that of a WOS.

The notion of a WOS is, as has already been made clear, a conception that represents society in terms of a closed system. Therefore, those conceptions of justice which do not view society in that way--perhaps because it has "occured to us" that persons merely "affected by" must be acknowledged--are incompatible with justice as fairness at a very basic level. Persons who have deep-felt conceptual difficulties with the idea that the moral problem of social justice requires a closed-systems approach might find irreconcilable differences between their own thoughts and those clarified by Rawls. Or as Rawls himself writes,

> Those who feel no affinity for the notion of a well-ordered society, and who wish to specify the underlying conception in a different form, will be unmoved by justice as fairness (even granting the validity of its argument), except of course as it may prove a better way to systematize their judgements of justice.(1974.b,637)22

But one might just as well say that those who are moved by justice as fairness, and who feel no affinity for the notion of an open-systems analysis of human association (even while they might grant the validity of such arguments as those relating to the "affected by"), are left nonetheless with the question of how such other approaches might still be used to critique the "systematization" of their judgements about justice. The polite word for not retaining an acknowledgement of persons merely affected by social practice might in this instance be "rationalization". To anticipate the general form for a clear and positive answer to such charges would at least be a prerequisite for their addressing those who can entertain either open- or closed-systems analysis, but who see no definitive way to place judgement on the major

conceptual discrepancies between them. And for those who are especially suspicious of conceptions which imply a systematic closure of moral thinking itself, such anticipatory provisions would be all the more important. But to provide such anticipations, open-systems conceptions of justice would themselves have to be considered within the justice as fairness account. Except for the sense in which his earlier general position was a potential candidate, Rawls does not do so. For him, during this period it becomes more and more the case that there simply "must" be a closure of social system on "some level".

Because of the "provisional" closure of social system in this period to that of the nation-state, and the further provisional closure of that system to its full and active "normal" citizens, the fate in wide (let alone broad) reflective equilibrium of the whole conception of justice as fairness would seem to rest on the positions we take with respect to that which these closures exclude. And those positions depend on what in fact our past practice has been as socially active individuals--that is, the experiences through which we have come to define our very personhood as moral beings. In as much as most citizens of constitutional democratic nation-states might share the feeling that mutual aid and justice are not especially distinct notions--even if this is based only upon that strangely principled feeling of guilt they have when, every couple of years or so, the television game-show called "Give Now Or Watch The Ethiopians Starve To Death" invades their living room--they might have a similar problem with the account. In any case, there are many in our society who would want to say that, even to be a full and active citizen of a democratic social system, systematic

closure of our social practices is the very thing that must be fought against, ...its being based on a way of thinking that is essentially antithetic to the democratic ideal. For, it might be contended, the moral attitude which closes its vision to but those who are fellow citizens is in the end no different to the one which closes it to but a stipulated notion of the "normal" person. This attitude permits the disqualification from direct representation of both abnormal citizens (as persons to be affected by our morally supererogatory special attention) and otherwise normal non-citizens (as persons to be affected by our structurally convenient lack of attention). It does so on a premise which lacks Ideal-grounded moral principle: that of the citizen-norm as the paradigm of moral personhood. If we cannot acknowledge persons who, except for their lack of citizenship, would for all intents and purposes otherwise be fully capable as participants (immigrants are typically "ideal" citizens), how can we be expected to acknowledge the "abnormal" (citizens without a socially valued role) in our own ranks?

The morally laconic citizen-norm becomes too easily a sacred cow to be milked by those who are not prepared to sacrifice their social advantages to anywhere near that point which is necessary to effect real moral change in the social structure. Those who are at least in principle conscientiously prepared to do so are considered to be either "saints" or "radicals" once they act on their conscience--in both cases meaning psychologically abnormal and spiritually ultra-civil. The extent to which they explicitly show themselves to be so is the extent to which the system reproduces a citizen-norm justification in closing

itself off from them, first implicitly then (like the other "others") explicitly. Their being but the other side of the same coin as radicals, the citizen-norm claim is that saints cannot justifiably expect to cash in their values at the expense of the establishment. Thus the potential capacity of less actively conscientious persons to restructure social practice in a moral direction is stifled by the morally static and loaded determination of what is properly to be considered established as socially normal. Thus the vast majority become more or less morally despondent and cynically accept the domination of the norm, even if occasionally dis-positioning their saintliness on a pew or their radicalism on a bar stool. Thus the mentally and physically disabled, the emotionally unstable, the chronically homeless, the refugee, etc. remain dissociated from "democratic" society, and are left to share the company of saints and radicals on the social borderline. Thus the norm perpetuates its own existence, ...the nation-state its status quo, ...the more-advantaged citizens their self-justifications, ...the lesser-advantaged their normal circumstance.

The basic point in the above concerns our capacity to ideate a conception of justice at all. If, as Rawls wants to assume, "we" are not persons driven primarily by rational self-interest, but by our intuitively reasonable dispositions of moral personhood to the extent the social circumstances (i.e. the norm) allow us to be, are we capable of entertaining an open-systems conception of justice? If not, is this because we are determined in large part by a closed-systems social norm? Is this determination a matter of degree? If it is, should we attempt

to think beyond it? Should we attempt to acknowledge the merely affected? If we at least became more capable of thinking in terms of open-systems, would this be a good thing? Or is the ultima ratio that such potentially anomic perspectives are already a bad thing? Why, because they cannot be well-ordered from the social norm's point of view? Alternatively, if in fact we are already capable of entertaining an open-systems conception, why would we even want to consider a closed one? If we are already capable of conceiving society as an ongoing general position, what would be the point of construing it in terms of the closed ideal of a WOS? Why should we agree on an ideal of "order" when, in practice, to be active moral agents we need an ideal of "disorder", of ongoingness, by which to restructure society creatively and continually so that it is no longer normal practice to exclude others?

There are times, in which Rawls would seem to be appealing to the potentially anomic ground of basic human moral autonomy where, in theory, the social dimension of any human being's agency as a moral person is based primarily upon neither group-interest nor rational egoism, but on their freedom to associate or not with other humans, whether as individuals or through groups. To the charge that justice as fairness is arbitrarily biased in favor of that form of individualism which is characteristic of classical liberalism, Rawls writes:

> Normally one would expect most people to belong to one or more associations and to have at least some collective ends in this sense. The basic liberties are not intended to keep persons in isolation from one another, or to persuade them to live private lives, even though some no doubt will, but to secure the right of free movement between associations and smaller communities.(1975.b,550)23

But what if, due to the account given of them, the basic liberties are by default intended to keep citizens in isolation from non-citizens, etc., and to persuade them (us) to live "civil" lives rather than meaningfully attempting to secure the right of free movement between associations and communities in a broader context? In that case, it would have to be assumed that the normal capacity to conceive the very idea of justice, to extend our awareness of it as a natural duty, and, potentially to act upon it, defaults in the same way. That is, the assumption would be that our "complete" moral feeling of principle guilt is, in principle, one which is essentially (hence ideally) concerned about our normal fellow citizens.

The proximity of such default mechanisms was much further away in the first period. Certainly the whole spirit of the (ongoing) general position was one which aimed at not giving into that way of thinking. Whatever the internal reasonableness of a particular society's practices were, a question of justice as fairness could in principle still arise so long as there remained persons in a socially normative context more inclusive than that particular society's borders to be "affected by" its practices; that is to say, "not persons with whom we are tied by any form of particular fellow-feeling."(1963.a,291,m.e.) In this second period, the whole notion of "in principle" has explicitly begun to incorporate default mechanisms more appropriate to a level of association guilt, albeit applied to a fairly large association. As Rawls writes,

> [...] the citizen body as a whole is not generally bound together by ties of fellow feeling between individuals, but by the acceptance of public principles of justice. While every citizen is a friend to some citizens, no citizen is a friend to all. But

> their common allegiance to justice provides a unified perspective from which they can adjudicate their differences. [...] We desire to act on the natural duty to advance just arrangements. And this inclination goes beyond the support of those particular schemes that have affirmed our good. It seeks to extend the conception they embody to further situations for the good of the larger community.(1971.b,474,m.e.)

But in those instances where we might, for example, have a natural duty toward a non-citizen, our status as "citizen" would on Rawls' (provisional) account appear to be logically prior to that of our being a "moral person" proper. This would conflict with our desire as moral persons to advance the disclosure of just arrangements, to go beyond the particular nation-state scheme that has affirmed our good, to further situations for the good of human community as a whole.

As moral persons we would be opposed "in principle" to arrangements which frustrate the emergence of a "unified perspective" from which humans in general could adjudicate their differences. However, as "citizens" we are constrained first and foremost to extend our conception of justice only in as much as this furthers situations for the good of the nation-state community. As citizens, our moral thought is retarded to serve but the limited good of the singular association of normal citizens. Hence, if we are nonetheless first of all to consider ourselves as moral persons, the question is that of what purpose is being furthered by our reconceiving ourselves (at least for the purposes of ideal theory) primarily as citizens? More generally, as moral persons can we in principle limit our conception of justice to a closed system? As will become apparent in the third period, such issues as those implied in the above analysis will be undercut further by Rawls' technically prescribed notion of conceiving ourselves as "political"

persons. Under such a persona, the relevance of natural duties of justice which might seem to overlap with those of mutual aid, etc., are subverted by what is forwarded as the culturally intuitive basic idea that we may justifiably limit ourselves in questions of justice to but the structure of our own constitutional democratic nation-state. As I will now suggest, the issue is whether Rawls appreciates the basic importance of moral creativity and its role in ethical inquiry.

Intersection: The Sense of Moral Creativity

I mentioned at the outset of the last chapter that I will not be dealing directly with Rawls' account of civil disobedience. If it is not already clear why I am justified in not doing so, the following brief comments should be helpful. The basic point is this: if indeed the purpose of our "coming to know" is that of conceiving justice in terms that would allow us through an ideal model of institutional obligation to better understand and act on our own natural duties and thereby better inform others of the justification which supports our practical moral programme, why would we choose a conception which in its own terms fundamentally limits our (ideal) ability to do so? Are we already so clear, for instance, on what is a natural duty of justice and what is a natural duty of mutual aid that the two may be categorically differentiated? Is it to be assumed that the state-centric division of human association predominates the ideal side of moral thought so much that our experience on other levels may be subordinated by it? To all of these questions I would suggest that our answer would depend on what it is we want our conception to justify. If we want it to justify the arrangements which directly or indirectly benefit ourselves, then it would be rational to close the system to that which happens not so accidentally to be a most-advantaged state system, our own, where the more pressing questions of mutual aid (if not of justice) concerning the merely "affected by" both within and outside the system are shifted into the category of "government's responsibility", and where state-centricity is the normal pathology that comfortably numbs us away from those pains of failure which to some degree inevitably accompany any

real attempt to authenticate our moral personhood. But such a desired justification is reasonable only in terms of a desire to repress our moral feelings--which, Rawls would agree, is not a reasonable desire. If instead of that we want our conception to justify arrangements that aim at being of the greatest benefit to human beings, perhaps because we ourselves want the full benefit of being a "human" rather than merely a "citizen", then we are force to be much more creative in our approch.

For Rawls, to act out one's convictions through civil disobedience, "one addresses the sense of justice of the majority of the community and declares that in one's considered opinion the principles of social cooperation among free and equal men are not being respected."(1971.b, 364) But if one is merely addressing citizens, and not moral persons proper, one's "considered opinion" would not receive much consideration unless it conformed with the self-interest of the state community. Moreover, as first of all a "citizen" oneself, the considered opinion could not be one which gives consideration to interests which might override those that support the state (as a closed system of interests). Thus, to depend on civil disobedience would be to suspend the moral imperativeness of addressing ultra-civil natural duties. If there seems to be an implicit moral stagnation of social association in all this which strikes one, as a citizen in one of the globally most advantaged state systems, as typical of the uncreative mindset affecting our present arrangements, then the conception underlying it ought not to be accepted. Nonetheless, it would be a useful exercise to become aware of how resourceful such a mind-set might be in seeking the grounds to justify itself. For such purposes, Rawls' third period is exemplary.

CHAPTER THREE: Just Us

In contrast to the more typical diversity of issues with which most other leading thinkers would tend to involve themselves, one may be struck by how resolutely singular is the concern that Rawls has consistently focused upon as the central task for his own scholarship. While it is true that Rawlsians and Rawls' critics alike have done much to relate his thoughts to a broader spectrum of issues,1 he himself has notably abstained from entering into many crucial questions raised by those discussions. This he has done both indirectly, by not extending any comment at all, and directly, by discussing why his theory is justified in not accounting for the nature of its broader relevance in any positive (or for that matter, negative) way. Aside from passing references to how other matters must also be investigated if his theory is ultimately to be given 'full' warrant (eg. a complete reflective equilibrium), the substance of Rawls' works have never deviated from the primary aim of working out an institution-based conception of (social) justice. Even his discussion of the independence of moral theory was cast principally in accordance with those problems particularly relevant to his concern for the concept of justice (as fairness).2 Such mindful determinacy and intellectual discipline is admirable in as much as it has provided a wealth of speculations on that score. But once one undertakes the task of critically reconstructing the development of Rawls' works, a keen sense of philosophical unrequitedness becomes more and more thought-provoking. Perhaps most urgent of all, there arises a practical issue as to what it is we are supposed to do with the notion of justice as fairness, even if we have come more or less fully to re-

articulate its basic matter to ourselves and, as far as it goes, to accept it. Connecting the notions of justice and fairness is not, after all, in itself a terribly objectionable proposition. But if inspite of this general acceptance there nonetheless persist other moral insights and commitments, in our broader range of ethical concerns, that are less informed by "fairness" as they are by other notions (such as mutual aid) which on the face of it contradict the Rawlsian conception of justice, then how are we to proceed in a morally consistent manner?

Notwithstanding Rawls' apologetics about the (increasing) narrowness of his theory's scope, at this point in the reconstruction it would already seem reasonable enough to predict that he would claim our primary moral obligations (and duties?) are to the basic structural reformation of those institutions which comprise our social world--or more precisely, our native nation-state--along the lines suggested by his procedure of contractual reflection and his principles of justice. But if it is in fact true that "other matters" must be accounted for before the sufficiency of those principles, and even the procedure itself, can be properly evaluated, where does this leave us? While it is no doubt impossible to cease begging questions on some level or other in any matter of theory, acquisitioning this fact would provide poor justification for formally instituting such intellectual limitations into the substantive articulation of our own practical reasoning. And yet, such is precisely what Rawls comes to acknowledge--and to defend directly--about his methodology in the works of 1980 to 1988.

This point would not be so critical if the basic substance of justice as fairness were not already worked out, at least in a

provisional manner. But the mere fact that Rawls' current theoretical perspective is the result of an unswervingly focused development extending over a period of some four decades would arguably constitute a good reason to dissuade one from granting him continued absolution. Independent of the question as to whether his more refined developments of the theory have served to clarify or to further obscure its basic ideas (again, a problem common to theorizing in itself), the task of at least provisionally explaining its relevance to the broader picture of ethics in general is one which it would be reasonable to consider as equally important. Without such direction, the danger Rawls' thought faces is that its relevance remains understandable only within the confines of considerations directed at a limited domain of established social institutions: solely those which are internal to, connected with, and dependent upon a nation-state framework, and not to the moral aspects of social practice in general. Then again, even that prospect might be seen as less of a "danger" if it were clearer why Rawls seems at times not to differentiate those levels of concern, even while doing so at other times.3 Indeed, if it is the case that Rawls himself were unsure as to what the practical weight of justice as fairness amounts to, on balance with other moral concerns, might it not also be the case that he ought to extend his project into those other matters? Alternatively, if it is in fact reasonable to suppose (as notable aspects of this third period would suggest) that Rawls does view "the special weight had by reasons of [nation-state] justice" as the supervening condition on moral practice in general, would it not still be requisite upon him to broaden his considerations to those other

"separate questions" in ethical inquiry, even if only to substantiate his scholarship in a more broadly convincing way? As it stands, Rawls has for the most part refrained from doing so.4 And without the benefit of such other reflections, the practical meaningfulness of his project as a whole remains trapped in an intellectual limbo--at least for those (few?) who insist upon viewing ethics in less compartmentalized terms.

In A Theory of Justice, as in the first of his publications and virtually all subsequent ones, Rawls took great care to classify the immediate project of his theory in an especially narrow (and supposedly "provisional") manner. Typical of this methodologically generated sort of restriction is the following, given in reference to the type of "next step" that would have to be made in addressing the broader realm of concerns relevant to the task of arriving at a "reasonably complete ethical theory":

> I do not contend that the contract notion offers a way to approach these questions which are certainly of the first importance; and I shall have to put them aside. We must recognize the limited scope of justice as fairness and the general type of view that it exemplifies. How far its conclusions must be revised [or totally reconstructed?] once these other matters are understood cannot be decided in advance.(1971.b,17)

A more pervasive form of this same general limitation is applied to the "constructivist" framework Rawls arrives at in this third period (which is to be understood as involving a central clarification to the previously more generalized social contract approach). Because the issue of begging questions seems to be a recurrently pernicious, but perhaps also essential, aspect of intellectual discourse, moral theory like any other theoretical inquiry cannot be expected fully to avoid entering into it. But if the task of moral theory is, as Rawls has

assumed, to articulate a uniquely important aspect of human reason in terms adequate for grounding (ideally or otherwise) a workable practical viewpoint, is the line of "limited scope" which the theory observes one that ought to become increasingly reductionistic and discrete (eg. dealing solely with a particular association of "participants"), or is it rather one which ought to become as comprehensive as those limits will bear (eg. opening grounds for acknowledging the "affected by")? This is a contentious issue, since both endeavors serve useful purposes inspite of their apparent contradiction. But it is much less contentious (except possibly on much more fundamental levels of consideration) to claim that, in what are the realities of social life, our ongoing practical circumstance as human beings is not one which by any means necessarily offers us what would otherwise be the convenience of justifiably breaking up our moral concerns and experiences into discretely limited scopes--especially if we support the perspective of Rawls' full condition of finality, mentioned in the previous chapter. For example, grounded only by the supposed limits suggested by Rawls' (provisionally) closed circumstances of justice, if through our social institutions we were to act in a "just" way toward our normal fellow citizens, but in doing this failed consequently to do the same for persons not so associated, then what exactly is it that we have accomplished from a moral point of view? If, in contrast, we are of the view that in a relative sense the moral circumstances of, and our institutional relations with, our fellow normal citizens are on the whole satisfactory, and that what is of "utmost urgency" (to borrow a phrase Rawls employs in this period) in a more essentially moral sense

is how we might direct ourselves to those not so classified, then the project of consciously and systematically justifying our social practices according to the always already predisposed structure of the "familiar" citizen-norm might seem even to verge in the end on the immoral. While a fidelity to established law might be secured in this way, the fidelity to establishing the moral would seem to be much less so.

Such a discussion, however, remains premature in that it begs the question of what Rawls' thoughts during this final period actually turn out to be. As preparation for the critical themes to be developed more fully later on, the upcoming synopses should be considered with the following questions in mind: Even accepting the general intuitive appeal of the basic ideas Rawls uses to fortify his "Kantian" conception of the person (i.e. the ideal prototype for conceiving POPs and, correlatively, citizens in a WOS), what justifies his claim that these are the basic intuitive ideas to which we must appeal? In our social world, whether or not we personally like it, are there not equally basic cultural ideas that are just as relevant to the issue--say those of mutual aid or, perhaps unfortunately, bourgeois self-interest--but which are not accounted for by Rawls? Furthermore, is there not some significant intuitive appeal to the basic counter-cultural idea of critically reappraising, reconceiving, and, if warranted, devaluing or discarding the fundamental status of certain culture-centric intuitive ideas? That is, is it possible for human beings to originate (or at least fundamentally reconceive) basic moral ideas into their social world, especially as a direct response to its historically novel,

contextually changing, and forever ongoing demands? It may be the case that those levels of social chaos behind which ceteris paribus perspectives on status quos forever lag are the grounds most relevant to meaningful practical discourse--where the dangers and opportunities that await may balance upon the possibility of at least one or a few individuals contributing a cathartic appraisal of their own creation, discursively radical to the tradition, penetrating anew the roots of social disorder, which uproots spent ideas and plants the seeds for new ones. It must, however, be granted that even if such is the case, it is better than not that the garden of social ideas has been well maintained by those, like Rawls, who tend and hoe the thoughts of the tradition. For through such efforts it becomes easier to see how ostentatious the garden as a whole has become. In the context of our present social reality, the general issue of this admittedly aphoristic image of moral thinking relates to the issue of whether a strict focus on closed-systems, especially that relevant to a state-centric notion of justice, is also that according to which the present task of moral, political and social thought ought to be constrained and defined. With these issues in mind, I will now proceed with the synopses of Rawls' third period of works. Because my final explication will involve a somewhat broader theoretical consideration, the attention given to the upcoming articles will be a relatively extended one.

A. SYNOPSIS (1980-1988)

*** "Kantian Constructivism in Moral Theory" (1980)5

Divided into three lectures, the general thrust of this work is to explain justice as fairness in terms of a "constructivist" framework. Particularly for what Rawls calls a "Kantian" view, this framework is one which relies upon an initial formulation and subsequent assessment of an ideal model construction (i.e. the WOS, as regulated by the principles chosen in the OP) in terms of how it relates to certain of our ordinary moral judgements. These judgements are to concern that of a conception of moral personhood which is based in a specific way upon properly articulated ideas of freedom and equality; and, in turn, of persons so construed placed in an accordingly reasonable context designed for the negotiation of and agreement upon first principles of justice. Such a framework is meant to be contrasted with any methodology that is dependent upon supposed prior and antecedent principles, in that these latter sort by definition direct the possible results of persons' deliberations from the (uncritical) outset. Since a ground for such possibilities is itself that which comes into question, a priori presumptions remain unjustified. In my analysis of the first period, the constructivist framework was anticipated in terms of the general notion of a genuinely intersubjective inductive method of inquiry. So far, certain aspects of how Rawls' use of this approach became problematic have been discussed, and I will review them later on. But the changes in its use which occur in this third period are unprecedented within the development, coming as they do to rely upon a particular interpretation of political culture as a deductive ground.

To that end, Rawls cites two motivations underlying these lectures. First: to lay out "not previously emphasized" aspects of his theory, in terms expressing both its more or less general resemblance to that of Kant's and, just as importantly, their differences. Second: to remedy the extent to which the Kantian variant of constructivism has remained unattended to and/or misconstrued, in comparison with how it has been less contentiously developed within such other familiar traditions as those of utilitarianism, perfectionism, and rational intuitionism. While Rawls here offers much of significance in way of comparative theoretical analysis, I will restrict the synopsis to those aspects of the work which relate directly to the development of Rawls' thought in and of itself.

1) Rational and Full Autonomy

In essence, this lecture expounds a specific distinction to be made regarding how we are to imagine the description of POPs in relation to that of citizens of a WOS. Understanding the nature and function of this relationship is crucial, given that the whole Kantian perspective of justice as fairness is to distinguish itself in terms of how "it specifies a particular conception of the person as an element in a reasonable procedure of construction, the outcome of which determines the first principles of justice."(516) The formal conditions for justifying a conception of justice, describing its social role, and assessing its feasibility are all to depend fundamentally upon how such considerations cohere with the conception of the person employed. If only for the reason that it remains true, within our own social world, that agreement on a common basis for inquiring into the latter sorts of

problems has not been settled, Kantian constructivism is cast as approaching the issue of moral justification as follows: "how can people settle on a conception of justice, to serve this social role, that is (most) reasonable for them in virtue of how they conceive of their persons and construe the general features of social cooperation among persons so regarded?"(517) Given common basic intuitive ideas of ourselves as free and equal moral persons which, rather than being a priori claims, arise out of our shared public culture of constitutional democracy, a reasonable basis for an appropriate conception of the person is (for us) at hand. Discovering how to express a basis for social agreement which acknowledges such a conception is, as a practical social task, to be what is of primary concern for moral theory as a whole. "Apart from the procedure of constructing the principles of justice, there are no moral facts", since moral objectivity cannot be comprehended except from "a suitably constructed social point of view that all can accept."(519,m.e.) In effect, the concept of justice is now explicitly offered up as the supreme idea governing what Rawls previously conjectured to be "absolute morality".6

After reintroducing the "basic" model-conceptions of a WOS and a moral person (citizen), as well as the "mediating" one of the OP, the differences between full and rational autonomy are presented. Essentially, rational autonomy relates to the purely instrumental conditions required for those deliberations undertaken by POPs (as exclusively artificial persons) and full autonomy characterizes those made by citizens in a WOS (as ideal representations of actual personhood). First, as a situation of fair opportunity where persons

are represented solely as free and equal moral persons, the OP's veil of ignorance and strict use of pure procedure define the singularly abstract conditions for rational autonomy, namely: "their being at liberty to agree to any conception of justice available to them as prompted by their rational assessment of which alternative is most likely to advance their interests."(524,m.e.) Whether considered merely as representatives of other persons with determinate interests or as such persons themselves--"[i]t makes no difference either way, although the latter is simpler and I [Rawls] shall usually speak in this vein"(525)--as moral persons the OP situates the capacity of POPs in pure terms. They have but, 1) the two moral powers of an effective sense of justice and the ability to form, revise, and rationally pursue a conception of the good, 2) the two corresponding "highest order" interests of realizing and exercising their moral powers, and 3) a "higher order" interest in "protecting and advancing their conception of the good as best they can, whatever it may be." Out of this conception of persons with rational autonomy, it follows that the primary goods jointly selected in the OP--being the bases arrived at for the purposes of interpersonal comparison--rest upon that conception, and not upon "purely psychological, statistical, or historical inquiry."(527) Rawls notes that this is a crucial revision to certain suggestions present in A Theory of Justice.

The second notion, full autonomy, is an expression of how the Reasonable both presupposes and subordinates the Rational. As agents originating principles for the institutions of a WOS, the already determined purposiveness of their rational deliberations requires that

POPs must somehow necessarily be able to come sufficiently to appreciate and, subsequently, limit their concerns to that which is appropriate to the general character of the persons for whom those institutions are to exist. As ideal moral persons, it is already to be understood that citizens of a WOS are capable of full autonomy by virtue of their freely accepting and, equally, acting upon the principles of justice--according to however these are defined within the OP. Thus, even to be rational, it must already be possible for POPs to view what principles would be most appropriate for a WOS in terms of its citizenry. The conditions for arriving at this view are provided according to how the framework of the OP itself is to be conceived. That is, as by definition a construct for determining a superior basis for securing social cooperation in circumstances of mutual self-interest, the conditions underwriting the OP must already be Reasonable, as directed toward reflecting the cooperation-related ideas of reciprocity and mutuality via the mediating notion of fair terms of cooperation. To succeed, conditions expressing the Rational advantage of the POPs themselves (their pure concern for fulfilling yet unknown life-plans) are in a certain sense but trivially necessary; the point to be taken is that this latter necessity is a morally pointless one if it is not shaped by a Reasonable framework. Accordingly, while POPs themselves are but rationally autonomous, the OP nonetheless incorporates conditions appropriate for full autonomy as the "background set-up [...] which frames the discussion of the parties and situates them symmetrically."(529) In this way, the principles arising *out of the OP* subordinate merely rational considerations: as determined first and foremost against a purely Reasonable (moral) background, they

"limit absolutely, the final ends that can be pursued."(530)

In the final section of the lecture we are reminded that in the end it is from a third point of view, "that of you and me", by which justice as fairness (or any other conception of justice) is to be tested. Through the process of general and wide reflective equilibrium it is thereby determined "how well the view as a whole meshes with and articulates our more firm considered convictions, at all levels of generality, after due examination, once all adjustments and revisions that seem compelling have been made."(534,m.e.) It would appear, then, that in the end reflections would still have to be "broad" as well. Our conception of ourselves and our considered judgements on questions of justice are to have connected sufficiently with those arising out of the construction if it is to succeed in having a practical effect which is properly justified by sound moral reasoning.

2) Representation of Freedom and Equality

Having presented the two formal dimensions of influences and constraints that guide the adoption of principles in the OP--the Reasonable and the Rational--Rawls now explains how it is that his account distinctively reflects those notions of freedom and equality which are to be taken as the essential aspects of moral personhood. To understand how it is that the OP serves to mediate 1) the conception members of a WOS have of themselves as citizens, with 2) whatever it is their substantive conception of justice might in particular be, this second set of reflections is necessary. Without it there would be no obvious way by which to introduce any practical content into the result of the OP. For while the description of the OP is one which strives to remain

independent of any specific content (so as to guarantee the most reasonable and rational way by which to evaluate particular claims of justice), if it cannot nevertheless be recognized (by us) as distinctively relevant to what citizens (ideally) judge as being the most fundamental ideas grounding their moral personhood, the question of its applicability would remain indeterminate and unresolveable. Furthermore, as the central device used to frame and focus the construction of justice as fairness, the OP's supposed reasonableness and rationality would be morally vacuous. To appeal to it, for the purposes of moral theory, without knowing how it represents freedom and equality would therefore be neither reasonable nor rational.

In line with the provisional analogy introduced during the second period Rawls states that, as a closed system of control comprised of a common polity native to a connected territory (cf.536), the WOS, like the nation-state, acts to regulate both 1) the objective circumstances of moderate scarcity, and 2) the subjective circumstances of conflicting life-plans and conceptions of the good. Thus, for the OP to incorporate criteria appropriate to identifying the ideal situation of freedom and equality (i.e. that according to which the superior WOS model would distinguish itself), it must provide conditions by which POPs would come to appreciate how alternative principles of justice would both affect and respect those circumstances. Most especially, given that the second of these circumstances entails "not only diverse moral and political doctrines, but also conflicting ways of evaluating arguments and evidence"(536) which becomes most apparent when resolutions to particular moral conflicts are sought, the principles must be of a form

that their acceptability would transcend such differences. To provide for this, Rawls structures the OP in a way that would address three levels of publicity: 1) the notion of society's being effectively regulated by public principles of justice; 2) those "general beliefs" concerning human nature and social institutions, which arise from common sense and uncontroversial scientific results, and upon which the acceptance of the principles can be intelligibly translated; and finally, 3) the "complete justification of the public conception", which requires only that such justification is publicly available to those who find sufficient reason to take the time to consider it. When all three levels are accounted for, a WOS model has satisfied what Rawls now introduces as the full publicity condition. Although it is noted that this condition may seem excessively strong, its central purpose is primarily to ensure access to an ideal groundwork for securing the basic liberties. For the possibility of citizens being "in a position to know and to accept the background social influences that shape their conception of themselves as persons, as well as their character and conception of their good [...] is a precondition of freedom; it means that nothing is or need be hidden."(539) If POPs could not come to recognize this (admittedly ideal) aspect of freedom, then it would not be unreasonable for them to choose principles for society which rely, for example, upon "historically accidental or institutionalized delusions, or other mistaken beliefs about how its institutions work." And if it is to be safely assumed that our considered judgement is that such a situation is (at very least on the ideal plane) unreasonable, then the OP must already be structured so as to respect this fact.

At the level of the OP, representation of publicity involves two dimensions. But on any level one might consider as relevant, "we simply require the parties as agents of construction to assess conceptions of justice, subject to the constraints that the principles they agree to must serve as a public conception in the stated sense."(540) Applied to the OP this entails, first, that there must be an agreement arrived at amongst the POPs concerning "rules of evidence and forms of reasoning to be used [by citizens in the WOS] in deciding whether existing institutions fulfill the principles of justice", whatever those principles might turn out to be. For POPs, such an agreement has two inter-related parts: the choice of the principles themselves and, correlatively, the procedure according to which the principles' application would be governed.

The second dimension of publicity relevant to the OP involves "the general beliefs of social theory and moral psychology relied on by the parties in order to rank conceptions of justice."(541) The essential point is that it is not to be imagined that the POPs' arriving at principles of justice is something which occurs due to any special knowledge on their part. Rather, the extreme upper limit of what they can legitimately be conceived as knowing remains always constrained by what it is we imagine would be the general beliefs in a WOS, and in turn by what it is that are the "suitably common" beliefs persisting in our own social world. The issue of whether this presupposes that those beliefs are "true" is addressed by Rawls in the third lecture. For the present, the important claim is that "unlike the objective circumstances of moderate scarcity, the subjective circumstances seem bound to obtain

in the absence of a sustained and coercive use of state power that aims to enforce the requisite unanimity. There is no alternative, then, to founding a conception of justice suitable for a well-ordered democratic society on but part of the truth, and not the whole, or, more specifically, on our present commonly based and shared beliefs, as above defined."(542) One of the primary bases, therefore, upon which the veil of ignorance is justified in excluding "certain kinds of belief, even when we as individuals are convinced they are true", is that these beliefs do not presently possess sufficient public currency. Given this background set-up, Rawls now proceeds to specify more directly the notions of freedom and equality to which the OP must prove appropriate as a device of representation.

The idea of freedom Rawls appeals to is that captured by the sense in which, as moral persons, "citizens think of themselves as self-originating sources of valid claims."(543) There are three elements to this characterization: 1) as self-originating sources of claims, citizens mutually recognize both 2) the independent moral power of each to have a conception of the good, and 3) that they are responsible for their own ends. In connection with the second of these aspects, Rawls offers a clarification: "by a conception of the good is meant not merely a system of final ends but also a view about one's relation to others and to the world which makes these ends appropriate."(544,m.e.) This view to the (social) world is to be considered apart from whatever more specifically personal or associational ends and aspirations citizens might have.

To set up his description of equality, Rawls introduces a further

ideal component of the WOS, familiar from the second period: "that all citizens are fully cooperating members of society over a complete lifetime."(546) Given that condition, three aspects of equality are presented. First, since each possess a basic capacity as moral persons, "all view themselves as equally worthy of being represented in any procedure that is to determine the principles of justice." Second, given a just basic structure, "everyone's sense of justice is equally sufficient relative to what is asked of them." And finally, despite whatever specific inequalities might persist in the WOS, "they do not match differences in the degree to which people comply with just arrangement"--that is, from the perspective of equally acceptable principles of justice, there can be no effective difference among persons' basic moral worth to society (cf.547). As citizens, persons are in that respect nothing other than equal.

Freedom and equality so described are to be represented in the OP on the basis of the following conditions. First, freedom is reflected by not requiring POPs to justify their claims, but instead allowing them to be "free to act in the best interest of whomever they represent within the framework of reasonable constraints embedded in the OP."(548) That is, there are to be no a priori principles external to the POPs own points of view as self-originating sources of claims. In addition to this, the freedom of moral persons (as being independent in their ability to conceive the good) is to be respected in terms of how each POP is "moved to give priority to guaranteeing the social conditions for realizing their highest-order interests, and in their having grounds for agreement despite the severe restrictions on information implied by the

veil of ignorance." Awareness of their collective ignorance is thus part and parcel of their freedom to agree without heteronomous influences (such as a priori principles). Out of these conditions for reflecting the freedom of moral persons, the OP captures two key features of the Kantian constructivist approach. The first is one attributed to persons, in that "they can stand above and critically survey their own final ends by reference to a notion of the Reasonable and the Rational." The second is to be found in how the description of the procedure for constructing the OP aims for the thickest possible veil of ignorance, in contrast to approaches which try to build in as much information as possible from the very start (eg. Hume's "judicious spectator"). The sole criterion upon which any specific information whatsoever may be permitted to the POPs is that such becomes necessary if rational agreement is to be conceived as possible.

The representation of equality is viewed by Rawls as being "an easy matter", as simply the symmetricality of the situation POPs find themselves in. The more determinate issue thus transfers to that of the fairness of the OP framework in itself. By requiring 1) that the basic structure of society be the primary subject, 2) that for this purpose "the only relevant feature of human beings is their having the minimum sufficient capacity for moral personhood", and 3) that as equally capable they must also be represented equally, the fairness of the OP is its guarantee that equality is being properly represented. In terms of the three dimensions of full publicity, by distinguishing the respective features of moral personhood that are relevant to i) the basic structure (via the OP's Reasonable background set-up), ii) the fairness of

distributions of social goods within that structure (via the Rational deliberations of POPs on a common list of primary goods), and iii) how the basic structure uses and/or addresses inequalities of natural assets (via the regulatory procedure to be used in the fully justified WOS), a way of reflecting the notion of equality which avoids the familiar obscurities and contradictions that have arisen around this concept becomes more apparent. More generally, the "wide social role" that the fairness construction describes for morality is most especially an "educative" one: "the realization of the full publicity condition provides the social milieu within which the notion of full autonomy can be understood and within which its ideal of the person can elicit an effective desire to be that kind of person."(553) That is, persons (as citizens) would become equal through their being afforded the personal opportunity and institutional conditions by which to comprehend properly the moral significance of equality at all (domestic) social levels. Thus, what is offered by the theory is not to be understood as a mere modus vivendi, but as something which "invokes a certain conception of the person" upon which substantive moral content may be related. Relating this feature's effective status in terms of more or less epistemological concerns is the subject of the final lecture.

3) Construction and Objectivity

Having thus far sketched the central notions of Kantian constructivism, Rawls now explains how this approach "interprets the notion of objectivity in terms of a suitably constructed social point of view that is authoritative with respect to all individual and associational points of view."(554) Rather than posturing about how its principles are

"true", Kantian constructivism seeks to demonstrate how they are "reasonable". [This distinction is not to be confused with the one made between the "Reasonable" and the "Rational" in the first lecture.] The manner in which the OP is structured to prevent there being any heteronomous influences on POPs deliberations, such as from a priori principles or otherwise independent moral orders, is one indication of what is to be understood by the above differentiation. Because POPs thereby represent the most basic abstract ground (the OP is rather a background) upon which the construction of principles of justice is originated, it is all the more apparent why the conception of the person plays a central role, and why this conception is of necessity "relatively complex". For without a prior and independent moral order to rely upon, the burden of theoretical responsibility falls naturally onto that of describing moral persons and to how they are capable of constructing such an order on their own.

In order to bring some practical sense of objectivity into the account, constraints appropriate to moral persons' deliberations need to be found which are consistently "reasonable". But what is supposed first of all by a constructivist view is that "a moral conception can establish but a loose framework for deliberations which must rely very considerably on our powers of reflection and judgement."(560) Furthermore, since entering into speculations about an independent moral order is not considered to be a practice suited to the purposes of moral theory, Rawls' approach instead considers those powers not as static aspects of human nature but as "developed by a shared public culture and hence shaped by that culture." It is through this distinction that the

essentially pragmatic nature of moral theory's social role is to become most understandable. Rather than having to meet the traditionally more comprehensive philosophical demands which arise in connection with talk about moral truth and independent orders, a reasonable conception of justice need only be precise enough "to meet the practical requirements of social life and to yield a public basis in the light of which citizens can justify to one another their common institutions."(561) To that end, there are but four primary conditions which are to be considered as constraining moral deliberation. First, that of publicity. In terms of the "wide social role" assigned to moral theory at the end of the previous lecture, the principles must be easy to understand and simple to apply. "The gain in compliance and willing acceptance by citizens more than makes up for the rough and ready nature of the guiding framework that results and its neglect of certain distinctions and differences." The second condition follows up on what is compromised by the first, through the employment of **priority rules** which offer "schematic and practical distinctions as ways that enable us to deal with the inevitable limitations of our moral capacities and the complexity of our social circumstance."(562) The third condition, viewing the **basic structure** of society as the primary subject of justice, and the fourth, using the notion of **primary goods** as the basis for interpersonal comparisons, are likewise offered up as "practical distinctions [which] are necessary if a workable conception of justice is to be achieved."(563) The "more modest goal" of a reasonable conception of justice, within which "the idea of approximating to moral truth has no place", seeks only to identify and solve "the most

fundamental questions of justice that can be dealt with." In other words, hard cases are granted as being hard, rather than being the penultimate tests for what must nonetheless be a practical theory. How this thesis is cashed out by Rawls will be one of my central concerns later on.

The role played by principles of justice is to "single out what facts citizens in a well-ordered society are to count as reasons of justice."(565) Given that in Rawls' framework the agreement upon principles of justice is in large part a product of (current) general beliefs, "we can allow, in theory, that, as the relevant general beliefs change, the beliefs we attribute to the parties likewise change, and conceivably also the first principles of justice that would be agreed to."(565) However, such a scenario is considered by Rawls to be but "a mere possibility", since "[i]t is hard to imagine realistically any new knowledge that should convince us that these ideals are not feasible, given what we know about the general nature of the world, as opposed to our particular social and historical circumstances."(566,m.e.) It must nonetheless be acknowledged as a possibility, if the constructivist framework is to avoid being charged with bringing an independent moral order in through the proverbial back door--being in this case the OP's background set-up.

That there are to be no reasons of justice apart from the construction, and thus no independent moral order (or construction?) which can legitimately be appealed to, does not, however, imply that the choice of first principles is made without any reliable or sufficiently stable ground. The Reasonable and Rational conditions according to

which the OP is structured are to be understood as securing in the only reasonable way possible exactly that sort of foundation. The choice made by POPs is not one which is "not based on reasons, a choice that simply fixes, by sheer fiat, as it were, the scheme of reasons that we, as citizens, are to recognize, at least until another such choice is made."(568) That is, it is not to be understood to imply a "radical choice", in the sense "commonly associated with Nietzsche and the existentialists". Because it is specific in its addressing the public culture of a democratic society, Kantian constructivism is reasoned by the fact that it "hopes to bring to awareness a conception of the person and of social cooperation conjectured to be implicit in that culture, or at least congenial to its deepest tendencies when properly expressed and presented."(569) Alternatively put, Rawls' principles of justice "are most reasonable for those who [already] conceive of their person as it is represented in the procedure of construction."

Finally, as to whether his approach ultimately commits itself to the idea of there being a "singlemost reasonable conception", at least for within a democratic society, Rawls leaves the question formally open. He goes further, however, than simply imparting that Kantian constructivism may or may not be equally appropriate to a plurality of reasonable conceptions, adding that "it may turn out that, for us, there exists no reasonable and workable conception of justice at all [...]" (or at any rate, none relevant to a Rawlsian framework), and that "the practical task of political philosophy is doomed to failure."(570) Rawls' most central assumption is clearly, therefore, that a more optimistic scenario relevant to his method persists, if only within what

we are to understand as our own respective constitutional democratic nation-state contexts--our hypothetically closed social worlds.

* * *

The final three synopses (1985,1987,1988) will be restricted to surveying those features of Rawls' most recent works which offer more precise focus on that which he provided in the 1980 Dewey Lectures. I understand this latter work to represent a watershed in the development of Rawls' thought which puts it on par with **A Theory of Justice**, most especially in view of the way it directly expresses the central role now played by his conception of the person, and the relation of that conception to a culturally motivated set of basic intuitive ideas. The forthcoming will indicate how Rawls' defense of this development came to relate to other aspects of his theory.

*** "Justice as Fairness: Political not Metaphysical" (1985)7

To explain further the thrust of what Kantian constructivism means to achieve, Rawls here posits the notion of applying the "principle of toleration", as borrowed from the sphere of modern Western religion, to the purposes of (political) philosophy. In his words, "the idea is that in a constitutional democracy the public conception of justice should be, so far as possible, independent of controversial philosophical and religious doctrines."(223) Perhaps the most crucial clarification, it is now forwarded that justice as fairness is not to be accountable as a moral theory (in the full sense of 1974.c, and as apparent in the title of 1980), but rather simply as a theory to be understood in terms of a corrected interpretation of what constitutes "political" philosophy proper. Questions such as, "[w]hether constructivism is reasonable for

moral philosophy [...]"(224,n.2), "[w]hether justice as fairness can be extended to a general political conception for different kinds of societies existing under different historical and social conditions, or whether it can be extended to a general moral conception, or a significant part thereof [...]"(225), or even whether "to develop a political conception of justice without presupposing, or explicitly using, a metaphysical doctrine, for example, some particular metaphysical conception of the person, is already to presuppose a metaphysical thesis: namely, that no particular metaphysical doctrine is required for this purpose"(240,n.22), are to be considered as "altogether separate questions". While at first blush the goal is perhaps not in itself necessarily inconsistent in any extensive way with the previous period, Rawls' exclusive concern with that strictly relevant to the here and now of you and I, as citizens (ostensibly by birth) of modern western democratic states, furthers the "pragmatic turn"8 he initiated most forcefully in 1980. For now the reasonableness, and hence the "truth", of his conception of the person (and the conception of justice grounded upon it) need answer only to that which he forwards as being directly intuitive to us as such citizens. To the extent that this proves to be so, the rest of justice as fairness will be recognized as having a practical groundwork which is especially resistant to more theoretically abstract, and traditionally overworked, challenges.

As what Rawls considers to be "the overarching fundamental intuitive idea, within which other basic intuitive ideas are systematically connected" into his theory of justice as fairness, the

notion of "society as a fair system of cooperation between free and equal persons" is to be granted as "one of the basic intuitive ideas which we take to be implicit in the public culture of a democratic society."(231) By "social cooperation" is meant the following: 1) that which "is guided by publicly recognized rules and procedures which those who are cooperating accept and regard as properly regulating their conduct"; 2) that which involves the notion of fair terms, whereby "all who are engaged in cooperation and who do their part as the rules and procedures require, are to benefit in some appropriate way as assessed by a suitable benchmark of comparison"; and finally, 3) that which appeals to a notion of the participant's rational advantage (or "good") specifying "what those who are engaged in cooperation, whether individuals, families, or associations, or even nation-states [?], are trying to achieve, when the scheme is viewed from their own standpoint."(230) Because those ideas are what is taken to be the concern for political philosophy, a political conception of the person appropriate to them is necessary. To arrive at such a conception, "other" issues ought not be decisive (if even influential at all) in way of its formulation. As a conception which "begins from our everyday conception of persons as the basic units of thought, deliberation and responsibility", it is in the first instance to be normative in a sense appropriate to a person-centred sense of morality (as opposed to legal, political, philosophical, or religious), and then "adapted to a political sense of justice and not to a comprehensive moral doctrine."(232,n.15) In this way, the conception of the person becomes a political one by route of its generically "personal" moral sense being

re-described in terms appropriate to the more specific context of social cooperation. The two moral powers (an effective sense of justice and the capacity for having a conception of the good) are in effect, then, to be regarded as political powers. That is, they are to be analyzed as constituents of our "public identity", and not in terms of how they pertain to our more private moral identity as individuals with "personal affairs" or as concerned members "in the internal life of associations"(cf.241) [eg. nation-states?]. The problem of accounting for issues of change in private identity are thus avoided, since "no change in our public or political identity"(242) is affected by such occurences. Therefore, as citizens and for the purposes of political philosophy, our "everyday conception of persons as the basic units of thought, deliberation and responsibility" is to be perceived in a purely public way--one that focuses on the sense in which we are in an ideally practical sense always symmetrically situated. It is in this manner that it is possible for such notions as "fair terms" and "primary goods" to become sufficiently inclusive variables for constructing the theory.

The OP is to be understood as nothing beyond a "device of representation" wherein purely moral-cum-political persons would attempt to solve the basic structural questions pertaining to social cooperation. "When, in this way, we simulate being in this position, our reasoning no more commits us to a metaphysical doctrine about the nature of the self than our playing a game like Monopoly commits us to thinking that we are landlords in a desparate rivalry, winner take all."(239) The conditions according to which the OP is described simply serve as an articulation of the intuitive apparatus by which we may at

any time reason out appropriate principles of justice. "Although the aim cannot be perfectly achieved, we want the argument [as opposed to an a priori order] to be deductive, 'a kind of moral geometry'"(239,n.21) That is, deductive for us, as citizens-by-birth in a modern Western constitutional democratic state, and in consideration of all which that would inductively entail once it is viewed as the relevant form of personhood. The essential way in which we are to think of ourselves as being "publicly" recognized as persons is to be understood as directly inferential, where the premises are as intuitively basic as it is possible to conjecture. For the premises are to be that which our public culture itself has manifestly secured (even if imperfectly) into the present form of our social reality. As publicly understood aspects of democratic freedom, our moral (political) power to have a conception of the good, our being recognized as self-originating sources of valid claims, and our capacity to take responsibility for our own ends are presented by Rawls as being so basic as current social ideals that, even if in social reality these aspects are not always respected or perfectly apparent, they are to be acknowledged as constituting what are equivalent to the sort of reasons upon which the most appropriate political theory available to us could be afforded deductive power. "Thus, justice as fairness seeks to identify the kernel of an overlapping consensus, that is, the shared intuitive ideas which when worked up into a political conception of justice turn out to be sufficient to underwrite a just constitutional regime. This is the most we can expect, nor do we need more."(246-7)

*** "The Idea of an Overlapping Consensus" (1987)9

The bulk of this article is divided into two sorts of concern. The first two sections discuss three features of a political conception of justice, and their appropriateness--especially in terms of the conditions imposed by what Rawls now calls the "fact of pluralism". The next five sections are replys by Rawls to the objections that justice as fairness is either 1) a mere modus vivendi, 2) that its method of avoidance constitutes indifference or skepticism about certain fundamental issues, 3) that despite Rawls' insistence to the contrary, some general and comprehensive doctrine remains as necessary to the theory, or 4) that his social vision is ultimately utopian. On the basis of his responses, Rawls goes on to highlight some of the major assumptions he takes himself to be operating under, and then discusses how his account is one of political liberalism proper.

Given the historical, social, and material conditions of modern Western democratic society, three features of a practicable and internally consistent political conception are to be acknowledged. First, "while such a conception is, of course, a moral conception, it is a moral conception worked out for a specific kind of subject, namely, for political, social and economic institutions."(3) Not only must it respect the social substructure underlying those institutions, but if it is a political conception in Rawls' sense, it must do so in the first instance. The moral speciality of such a conception is therefore to separate it in a fundamental sense, and from the very start, from other moral (and even otherwise "political") issues. On this point, Rawls now notes his acceptance of Kant's later belief that "a world state would be either an oppressive autocracy, or continually disturbed by open or

latent civil wars between regions and peoples."(3,n.3)

Second, "a political conception is not to be understood as a general and comprehensive moral conception that applies to the political order, as if this order was only another subject, another kind of case, falling under that conception."(4) Commitment to any "wider" doctrine is not to be entered into, so far, at any rate, as such avoidance is possible. The appropriateness of this and that of the first feature are to become most clear once one reflects upon the fact of pluralism, that is, the "diversity of general and comprehensive doctrines" and the "plurality of conflicting, and indeed incommensurable, conceptions of the meaning, value and purpose of human life (or what I [Rawls] shall call for short "conceptions of the good") affirmed by the citizens of democratic societies." Such is to be considered as "a permanent feature of the public culture of modern democracies", and to serve as concrete evidence of their citizens' freedom as moral persons. That is to say, this fact is at least indirectly a virtue of democratic culture, and is not to be marked as something which needs to be overcome. The problem to be solved is, rather, that of conceiving a way to respect plurality in such a way that this same respect may be publicly understood as the basis of an "overlapping consensus" of support for a political conception of justice, upon which a social unity may be sustained in "long-run equilibrium"(5). Such would come into the realm of possibility by virtue of the fact that political justice would be something "discussed on the same basis by all citizens, whatever their social position, or more particular aims and interests, or their religious, philosophical or moral views."(6) Given sufficiently agreed

upon common premises, consensus would be the point of departure when addressing those with whom one is in conflict on central matters of social cooperation. Social conflict would thereby become more resolvable, in as much as without the presence of such initial agreement we are left with but a contest of comprehensive doctrines--an intellectual state of nature.

Accordingly, a third feature of the political conception is that, rather than upon the basis of general and comprehensive doctrines, it arises out of "certain fundamental intuitive ideas viewed as latent in the public political culture of a democratic society." Given that citizens share at least an intuitive familiarity with the substance of the democratic tradition, and assuming there are accepted forms for offering a publicly shared interpretation of the structure and role of society's main institutions, "a fund of implicitly shared fundamental ideas and principles" may be said to exist and be appealed to legitimately. But to succeed in formulating a conception which remains true to this practical context of commonly held political understandings, political philosophy must not merely give it a more or less limited consideration, it must also "try to be, so far as possible, independent and autonomous from other parts of philosophy, especially from philosophy's long-standing problems and controversies."(8) Or in a phrase, "what is the least that must be asserted; and if it must be asserted, what is its least controversial form?"

As an indication of how justice as fairness can respond to certain classes of objections (the proponents of which he does not cite), Rawls extends comment into four general issues, as follow. 1) To the charge

that justice as fairness is but a political **modus vivendi** and truly not a "moral" theory at all, Rawls argues that the feature of social stability his theory offers depends upon persons affirming its conception of justice partially on the basis of how it, in turn, affords an affirmation of their own particular general/comprehensive moral, religious, or otherwise philosophical perspective. Such an affirmation, as itself based partially upon one's own conception being provided for, would not be affected by shifts in the distribution of political power permitted by the conception, in contrast to the shifts that purely instrumental frameworks tend to permit. Since the political conception is first of all supported for its own sake, even as this occurs concomitantly within the viewpoints of a plurality of comprehensive doctrines--that is, in conjunction with each citizen's personal or associational world-view--the sort of stability engendered "highlights a basic contrast between an overlapping consensus and a **modus vivendi**, the stability of which does depend on happenstance and a balance of relative forces."(11) In other words, an overlapping consensus does not function to "balance" conflicting conceptions and thereby rely on their happening to be dispersed in a way which would allow this to happen, but rather to allow them their own space and guarantee their not being overwhelmed merely by the opposing majority of other views.

2) In reply to the charge that his method of avoiding "general and comprehensive doctrines implies indifference or scepticism as to whether a political conception of justice is true", Rawls points out that such would **ipso facto** put his political conception in conflict with a wide range of such doctrines, whereupon the very notion of an overlapping

consensus would be impossible. Instead, while indifferent in the sense that his applying the principle of toleration to philosophy means neither to assert nor to deny such views, the point is to make possible the identity of at least a minimal (substantive) point of common agreement upon which a more practicable (general) conception of justice might be constructed. It is explained that while "[s]ome questions still on the agenda will be controversial, at least to some degree", such is only to be expected, since "this is normal with political issues."(13) Furthermore, even in the eventuality of an overlapping consensus, no matter how successful it might be, this occurence should not then be taken as sufficient evidence of its underlying conception's being "true", or even as a highly probable indication that it is so. Such evaluations must always be a "step to be taken by citizens individually in accordance with their own general and comprehensive views."(15) This point reflects the notion of a "reasonable" conception, as brought forth in Rawls' 1980 lectures, where POPs do not "accept" the conditions of the OP, but rather simply operate within them and (hopefully) come individually to a consensus that translates those conditions into principles and procedures for a WOS. The "truth" of the conception underlying a WOS would likewise (even if trivially) remain always conditional upon individuals forever coming on their own to agree it is so.

3) Notwithstanding the above, the objection arises that "even if we grant that an overlapping consensus is not a modus vivendi, it may be said that a workable political conception must be general and comprehensive [...otherwise] there is no way to order the many conflicts

of justice that arise in public life."(15) In response Rawls states that, first, provided citizens' general and comprehensive doctrines allow for an effective respect of the basic liberties and other constitutional guarantees, "no conflict of values is likely to arise that would justify their opposing the political conception as a whole, or on such fundamental matters as liberty of conscience, or equal political liberties, or basic civil rights, and the like."(16) To maintain this does not require there being a fully comprehensive view at hand by which to justify the political conception, but rather at most only a partial one sufficient enough to motivate a conscious acceptance of those basic ideas of a well-ordered constitutional regime already implicit in public culture. Second, because the fact of pluralism is to be a given in the first instance, Rawls' notion of a political conception "removes from the political agenda the most divisive issues, pervasive uncertainty and serious contention about which must undermine the bases of social cooperation."(17) What is provided, therefore, is the possibility of agreement amongst contesting comprehensive views where and when this is in principle possible. Deciding what is possible is not to be prejudged in the way of a comprehensive doctrine, but in light of what the plurality of such doctrines would or would not already prove to rule out.

4) Finally, to the objection that an overlapping consensus is utopian, Rawls retracts somewhat from the earlier differentiations made with modus vivendi frameworks, and conjectures "that as citizens come to appreciate what a liberal conception does, they acquire an allegiance to it, an allegiance that becomes stronger over time."(21) The initial

acceptance, however, may be directed to the conception as a modus vivendi while (apparently independent of that original consent) the nature of the conception itself would foster a subsequent order of acceptance which arises in response to its virtues--as a moral-cum-political perspective into which persons are educated.

Especially in connection with the previous reply, Rawls lists some of the main assumptions involved in his notion of how political allegiances are generated. The first concern those capacities which are to comprise a "reasonable moral psychology": namely, having not only a conception of the good, but of justice and fairness as well; a willingness to do one's part in just institutions, when others do likewise; developing a trust and confidence in those others; a trust and confidence, moreover, which becomes stronger and more complete in direct relation to the success sustained by such cooperation in the long term; and, finally, which becomes more entrenched as the basic institutions become more firmly and willingly recognized (cf.22). Second, certain circumstances of political justice, as historical and social conditions, are taken to be on the order of 'facts', as follow: pluralism; its permanence; oppressive use of state power as the only alternative to it; moderate scarcity; and, "there being numerous possibilities of gains from well-organized social cooperation, if only cooperation can be established on fair terms."

On the basis of those assumptions, it is suggested that the initial acceptance of the overlapping political conception, as a modus vivendi, would lead to an "independent allegiance" to it based on the mutual trust and confidence it inspires. Furthermore, the "discovery of a new

social possibility" would become more apparent; specifically, "the possibility of a reasonably harmoneous and stable pluralist society. [...] On this account an overlapping consensus is not a happy coincidence, even if aided as it no doubt must be by historical good fortune, but is rather in part the work of society's public tradition of political thought."(23)

To conclude the article, Rawls touches upon the sense in which his "political liberalism", as one which mediates between the Hobbesian liberalism of a modus vivendi and that of a comprehensive moral doctrine such as Kant's or Mill's, "is the view that under the reasonably favourable conditions that make constitutional democracy possible, political institutions satisfying the principles of a liberal conception of justice realize political values and ideals that normally outweigh whatever other values oppose them."(24) And as a political philosophy, but unlike all included under moral philosophy proper, it must be concerned with "practical political possibilities"--which in our case is to be understood in terms of a "defence of reasonable faith in the real possibility of a just constitutional regime."(25)

*** <u>"The Priority of Right and Ideas of the Good"</u> (1988)10

As a form of political liberalism, the central role played by the priority of right in justice as fairness (i.e. the "Reasonable background set-up" of the OP) might be taken to imply that it is a conception which permits but purely instrumental senses of the good, or else that the non-instrumental notions it does employ are strictly confined to the realm of individual choice. To avoid these interpretations of his theory, Rawls explicates five ideas of the good

to be found in justice as fairness, showing how the manner in which they are connected to the priority of right is meant to be a thoroughly complementary one. These ideas--goodness as rationality, primary goods, permissible conceptions of the good, political virtues, and the good of a "politically" WOS--are to be of more than secondary importance to the theory, since "just institutions and the political virtues expected of citizens would serve no purpose--would have no point--unless those institutions and virtues not only permitted but also sustained ways of life that citizens can affirm as fully worthy of their allegiance."(251-2) In other words, "justice draws the limit, the good shows the point", and a political conception of justice must respect this by ensuring "sufficient space" within its permissible range of notions of the good, such that it is able to engender a broad enough level of support in the targeted society.

The idea of goodness as rationality appeals to the notion of a rational life-plan that is aimed at fulfilling those reasonable expectations which citizens predicate on the basis of "their present position in society and the normal conditions of human existence", and is something Rawls contends is "taken for granted by any political conception of justice."(253-4) When such a conception is to be directed at a democratic society, it is to be assumed that all relevant persons "endorse rationality as a basic principle of political and social organization." For if they did not, "the problems of political justice, in the form in which we are familiar with them, would seem not to arise." As what he called the "thin" theory of the good, this idea helps ground the account of primary goods, as well as the motivation of

POPs (i.e. their "rational autonomy").

When combined with the political conception of citizens as persons who are free, equal and normal life-time cooperators, and with "the basic facts of social life and the conditions of human growth and nurture", the goodness as rationality framework makes possible the identification of those basic needs and requirements common amongst such persons. The second idea, primary goods--being the pure political understanding of what would be mutually recognized by POPs as advantageous for members of a WOS--serves both to make specific what sort of claims are appropriate within the political sphere, and to support the weighting such claims have against each other. To arrive at his workable list of these goods, it is sufficient that two conditions persist: "first, that citizens affirm the same political conception of themselves as free and equal persons; and second, that their (permissible) comprehensive conceptions of the good, however distinct their content and their related religious and philosophical doctrines, require for their advancement roughly the same [...] basic rights, liberties, and opportunities, as well as the same all-purpose means such as income and wealth, all of which are secured by the same social bases of self-respect."(256-7) Although Rawls forwards his familiar list of five headings under which such goods would fall,11 he leaves open the possibility of this list being supplemented with other headings, so as "to include other goods, for example, leisure time, and even certain mental states such as the absence of physical pain." But this matter is not pursued further. Rather, it is to be left as an open issue so long as such goods prove to respect the limits of the overlapping consensus,

and the constraints of simplicity and availability of information to which the political conception as a whole must remain subject.

The role of the primary goods in a political conception is not one meaning to serve as an approximation of "basic moral values", but simply of the basic needs citizens connect with that which they find as having practical social value. In fact, from the "political" perspective "there exists no other space of values to which the index of primary goods is to approximate, for if there were, this would make the view at least partially comprehensive and hence defeat the aim of achieving an overlapping consensus given the fact of pluralism."(259) It is precisely the achievement of that aim which is to be the exclusive focus of citizens' "political" deliberations, independent of how accurately the index approximates the basic values underwriting their own comprehensive doctrines. The fact of pluralism rationally requires non-political values to be separated from those expressed by primary goods, so that the former may be guaranteed a fair opportunity to persist.

This leads naturally into the third idea, that of permissible conceptions of the good. Because it must exclude those conceptions of the good which violate basic rights and liberties, etc., the justice as fairness account is not procedurally neutral. Both the principles of justice and the political conceptions of person and society are to be understood as already embracing substantive content. While it may be said to be neutral within the sense of not giving favor amongst conceptions of the good which it already permits, the act of permission is not also a neutral procedure itself. Indeed, the project of negating the pursuit of those goods which contradict the socially basic intuitive

ideas of freedom and equality constitutes a large part of the foundation upon which the overlapping consensus would be able to proceed in a positive fashion.

As Rawls' fourth idea of the good, that of political virtues is closely bound to the idea of permissible conceptions. Civility and tolerance, reasonableness and the sense of fairness mark out what a WOS would actively encourage in its citizenry, as well as what it would expect of them as a minimum. But as notions which are derivable from within the political construction, such virtues are not to be taken as expressing the theory's reliance on any particular comprehensive view. Rather, they issue from the construction of the conception itself, upon its Reasonable background set-up, and therefore serve as rational political measures which those same particular views must adopt (as the common social practice) before they can be permitted by and within society. As characteristics of "the ideal of a good citizen of a democratic state--a role specified by its political institutions", such virtues are also originally independent of those "falling under various associational ideals (the ideals of churches and universities, occupations and vocations, clubs and teams) and those appropriate to roles in family life and to the relations between individuals."(263) Unlike the comprehensive liberalisms of Kant and Mill, which proposed values for one's life in general, permissible goods and the political virtues are to be purely political in their conception and scope.

After a section in which Rawls acknowledges something of a social Darwinism about his theory--in that it does not claim to promise a social world without loss, and that even very worthy conceptions of the

good may well die out within a WOS since no one is obliged to pursue them12--the fifth idea, the good of "a well-ordered (political) society", is discussed. That is, "the good that citizens realize both as persons and as a corporate body in maintaining a just constitutional regime and in conducting its affairs."(268) While political liberalism does lack the fully comprehensive idea of a final end or social ideal, it does not therefore envision as its ideal a community of disparate individuals and/or associations alienated from any common goal. The point is rather that, given the fact of pluralism, the only possible common concern or social ideal is that of an overlapping consensus. The "ideal" is that situation of social cooperation which can be accepted and affirmed from within each and all of the myriad of comprehensive views that happen to be present at any moment throughout society--a situation where each person acknowledges their role as citizen (i.e. as a "member" of the society) to entail a public constraint on their private views in matters of common social practice. Such ideal constraints would follow from these persons' acceptance of the same principles of (political) justice and of the basic structure so regulated, as well as from their own effective sense of justice. The resultant political unity in the midst of private diversity constitutes "the limit of the practical best."(269) The political end remains a common one, and the possibilities it opens and secures for (its) permissible conceptions of the good would further the importance attached to it. In that manner, "the end of political justice may be among citizens' most basic aims by reference to which they express the kind of persons they want to be."(271) Hence, the WOS may be seen as

intrinsically good. "Drawing on all five ideas of the good we have surveyed, we can even speak of the mutual good of mutual justice, for surely political justice is something it is rational for each citizen to want from every other. This deepens the idea that a political conception supported by an overlapping concensus is a moral conception affirmed on moral grounds."(274) Not a comprehensive moral conception, but a "complete" political one.

B. EXPLICATION

To understand the general character of Rawls' latest period of works in a way which is most clear as to how they constitute both a development of and a departure from his earlier positions (i.e. potentially open, then provisionally closed society), one must become clear about the fundamental importance he now places on the moral-cum-political conception of the person. While previous accounts did incorporate conceptions related to this one into the bulwark of their ideal social systems, it remained unclear to what extent they were to be considered either their central element or notions which arose in defense (or inspite) of other ideas the theory was trying to articulate. In chapter one, such vagueness was seen in relation to the underdetermined amount of theoretical substance supporting Rawls' desire to preserve a certain logical priority for "human individuals", as opposed to "nations, provinces, business firms, churches, teams" and other institutionally established levels of human association. Chapter two revealed a more definitive conflict concerning the notion of a moral person as first and foremost a human being versus that of one's official membership in a nation-state--this being the established level of association we are to regard, for provisional purposes, as uniquely fundamental and as set apart from all other orders of "society". As was seen, the latter interpretation of moral personhood placed theoretical priority on a hypothetical relation of the person to a fully contained social context, as citizen of an economically, politically and culturally self-sufficient state, while the former stressed the way in which the relation must (in principle) concern that of all ongoing contexts of

social activity.

In any event, it is not until the present period that Rawls commits himself to a more sustained treatment of this general issue. As I will soon explain, in doing so Rawls is not simply clarifying the original paradigm of justice as fairness but shifting its whole foundation by de-provisionalizing the transitional period's account and leaving it to stand as is. Two alternative evaluations are: a) that he has in fact essentially clarified the description of his original foundation, or b) that he has finally created (or retreated to) such a foundation, there not having been one at all, for the purposes of mitigating the effects of previously ambiguous aspects and unanticipated interpretations of his theory.13 My concluding section will indicate the full significance of Rawls' shift from one foundation to another in terms of its lack of connection to emergent social and moral realities, particularly issues which show the need to relate those "affected by" the American nation-state establishment. Even if his earlier accounts remained deficient in specific ways, his present foundation will prove to be substantively myopic and methodologically recidivistic; instead, Rawls should originally have gone in the direction of developing the framework for an ongoing general position. To prepare for that discussion, the methodological element will in this section be presented under the theme of Non-comprehensive, and the substantive one under that of Ideological. In both cases, the idea of a conception of the person as one arising out of a particular interpretation of culturally intuitive ideas will remain as the most relevant touchstone, even if its presence will often have to be taken for granted. My extended synopses of the third period has

hopefully succeeded in presenting much of what that conception involves. But to better distinguish this notion from earlier treatments, it would be useful to recap further the more salient points of the reconstruction as it has been presented to this point.

In chapter one I recast Rawls' first period of thought in a way that laid emphasis on how his formal concern was with justice as a universal concept, wherein the relevant issue was our "coming-to-know" a procedure for articulating our sense of justice such that it might account fairly for everyone, in the strongest sense of that term. This problem was meant as one which, in principle, is relevant to the society of mankind (or at any rate the "vast majority"). Accordingly, the task was to account not merely for those persons with whom we one way or other can already relate through our hypothetically voluntary participation in particular pre-established social practices, but also for those even potentially affected by such establishments. At that time, the nation-state was considered to be but one among the many formal dimensions of institutional association through which persons may more specifically participate in or become affected by social activity, which is to say that "society" was in no determinate sense to be considered as coextensive with the nation-state (or any other established institutional setting). As such, citizenship in a state was not presented as being a normative trait with any supervening significance that could justify its being theoretically prior to that more fundamental notion of persons which remains strictly specified by their being human individuals. The "social" was considered first and foremost to be a human phenomenon, and the fundamental logic of joint

activity most appropriate for characterizing it was assumed to be of a purely inductive sort--a sort, that is, not delimited by considerations such as which institutional context or dimension of association was the basic subject for ethical inquiries into the concept of justice.

Unfortunately, this substantive concern for human individuals was shown to have been undercut by certain meta-ethical assumptions Rawls made in setting up the description of his methodology. By implicitly deducing that the normative agenda of groups were the morally fundamental issue, and that the practical task was to structure social institutions so as to accomodate ongoing group norms, the relevance of the whole procedure was found to be one partial to those persons who might already be "normal" (as competent judges of the group interest) in whatever prior sense such has been stipulated by the very social institution (or set thereof) whose structure is being put into question. Persons' actual capacity or opportunity to understand and apply, let alone accept, Rawls' procedure (and its two principles) thereby became contingent upon whether or not they were psychologically, spiritually, intellectually, culturally, etc., normal in a way predetermined to be appropriate to the status quo of whatever particular social context the procedure was being applied. Thus, the procedure proved not to be successful in fairly accounting for moral persons simply as human individuals, but rather, primarily as the properly operating predetermined parts of associations. That is, justice as a virtue of social institutions was not being articulated in a way sufficiently relevant to persons who are capable of association (as an activity), it was instead biased in favor of those who were already capable within

associations (as already established paradigms of social institutions, such as the monogamous family). Hence, a just social institution would be one which is so for those who are already capable, active, and considered to be the competent judges for, those group associations which have the collective power to determine the use of the institution (eg. fathers of the monogamous families in the contractual neighborhood). Those who are not normal persons in as much as they are not deemed sufficiently capable, or are not predisposed to be active, as "members" of a given association would nonetheless have to remain content with the sort of justice levied out to serve as the governing norm amongst (what have been "judged" to be) group interests. The substantive concern for humans as individuals was accordingly frustrated by a methodological presumption about the moral significance of individuals being normal in a post-institutionally prescribed sense. The fact that social institutions tend in general to be capable of adapting to group interests (collective rights) with greater ease than to individuals (human rights) was forwarded as being irrelevant so long as the issue was to remain that of re-arranging institutional structures in line with an inductive procedure which sensitizes them to the individual case. In the first intersection, it was suggested that Rawls might have successfully redirected his inquiry by, for example, extending his account of the sense of justice to capture that sense of "in principle" which relates to the fundamental transformation of one's moral outlook on human social practices to something beyond issues of inter-herd normality. Instead, the concern might be for how social institutions might adapt better to each person according to their given

circumstances, including their incapacities and/or their abilities as group members and/or as individuals, via a more direct and active reference to a principle of mutual aid. Practices structured so as to incorporate such a perspective might in principle more effectively succeed in addressing the primary substantive concern which ineffectually directed Rawls' work at this time.

In chapter two, the principal way in which Rawls' reliance on group-centric normative analysis came to effect restrictions on the substantive scope of his methodology was observed. By retaining his concern for finding a method by which to envision a morally justifiable ideal for using group-norm conditions of social normality to provide principles of freedom and equality for individuals, Rawls was increasingly forced to dissociate his notion of moral theory from any claim of even theoretical concern for addressing those aspects of human being and practice which are either recurrently unacknowledged or resolutely uncompromised by any socially traditional established normative structure. Now "everyone" is to be conceived as already being normal members of one big group: the nation-state. For all the attention he gave to the development of the second principle in terms of its difference principle interpretation, the unheralded exclusion of persons merely "affected by" social institutions and practice from coverage under the first principle did not receive independent explanation, save for the "provisional" fudge. The now abridged form of the first principle (given its priority rule interpretation) allowed the group-normative analysis directed at the second to proceed unimpeded in more obviously consistent ways. To be counted as a moral person in

justice as fairness, one would now have to be considered a full and active participant in whatever happens to be the (hypothetically) self-contained social system (i.e. grouping of groups) that is deemed as most relevant to the concept of justice. As prima facie the most manifest approximation to such a system, the nation-state was thereby considered the most plausibly fundamental dimension of human association, and moral personhood was likewise considered to be ostensibly manifest in terms of citizenship. Minus any concern in principle for those merely affected by social practice, non-citizens and those who are by default, or who conscientiously chose to be, inactive as "citizens" were no longer guaranteed direct access to that status of moral personhood required for one to be legitimated as a member within the primary subject of concern. What is now to be the most fundamental problem of social justice has become that of securing for all participants a fair access to the liberties and opportunities, income and wealth, and the bases of self-respect they need to most fully accomplish whatever endeavors they have as participants (i.e. as in principle full and active normal citizens). By first providing an account appropriate to this narrower task, Rawls speculated that supplementary adjustments to the theory would be able to address the more inclusive scope of moral personhood proper.

However, Rawls' transubstantiated concern for moral persons as citizens failed for the same formative reasons as did his earlier one. The pernicious effects of but an internally group-reflexive normative analysis continued not to have been avoided even by imposing conditions suitable to a closed system onto the previously uncircumscribed theory. Upon deeper reflection, it became clear that citizenship is not only

critically deficient as an approximation of moral personhood but also trivial as a moral condition upon which to validate state instituted and/or regulated norms. Even after bracketing off the many issues concerning the extent to which we may reasonably and rationally hypostatize the modern nation-state to be self-sufficient, it remained apparent that conceiving the primary task to be one of justifying a normative structure for within such a system required breaking off certain significant aspects of citizenship (especially, it was noted, when this is to be understood favourably as the realm of moral personhood in a globally situated and advantaged modern constitutional democracy) which are, again, resiliently independent of "normal" group-norms. Reintroduction of global/multi-national considerations would serve only to over-determine the case for why the selective quorum of conditions suited to analysis of the citizen-norm contradicts the underlying substantive concern's fundamental and (ideally) uncompromising demands.

Thus, even the more limited concern of fairly accounting for moral persons as citizens proved not to be successful. To recall, the specious form of citizenship arrived at during the second period explicitly--even if only "provisionally"--excluded persons on the basis of a) special health care, b) mental deficiency, and c) foreign birth. Implicitly, it excluded those whose considered judgement it was not to participate (at least to the normatively sufficient degree) in accordance with those current and familiar customs of law and economics by which the persisting form of social arrangement remains an ongoing one--especially where those customs appear most clearly to be serving

the notion of society as a closed-system. Presumably, persons with comparatively unconsidered judgements which are nonetheless in the nature of the previous sort (cf. Rawls' "Malibu surfer" to be refered to in the concluding section) would be excluded on a similar basis. Again, while the explicit exclusions might naturally provoke very basic objections about the form of the analysis, the most notable problem with the implicit sort was that this removed some of the most necessary conditions required within any society which values, promotes, and responds to moral creativity. Thus, the question touched upon in the second intersection, and upon which I will later expand, arised: Does Rawls' sense of justice as fairness require and/or result in a morally stagnant society? To this I will in the concluding section add: Is the modern constitutional democratic state, at least as Rawls conceives it, and despite its many virtues, a phenomenon which promotes a particularly insidious form of moral indifference? Given the broader context of current social realities, might its basic intuitive ideas need a radical reappraisal? How might we do this if, to remain within the considerations of Rawls' WOS, we must also already accept the governance of these ideas simply on the basis of their culturally conspicuous intuitive familiarity? Putting such questions aside for the moment, I will now turn to the first of my two thematic explications.

i) Non-Comprehensiveness

As a counter-distinction to Rawls' methodology in the first period, and for the moment as not bearing upon the technically prescribed sense of "comprehensive doctrines" he comes to employ in the present one, the

notion of "non-comprehensiveness" will refer to the manner in which justice as fairness is now to be understood with a view to but a systemically restricted subset of those situations of social practice calling for ethical decision-procedure. Recall that at the very outset Rawls' position was one in which "the problem of justice arises whenever it is the reasonably foreseeable consequence of the satisfaction of two or more claims of two or more persons that those claims, if given title, will interfere and conflict with one another."(1951,191,m.e.) At that time the "one and only way" to invalidate the outlined method for resolving such situations was "to show that there exist considered judgements of competent judges on specific cases for which it either fails to yield any judgements at all or leads one to make judgements inconsistent with them."(1951,185) Such determinately comprehensive considerations as these led subsequently to Rawls' first formulation of the justice as fairness account, as a straight forward conceptual analysis--that is, "an analysis of the concept of justice which should apply generally, however large a part the concept may have in a given morality, and which can be used in explaining the course of men's thoughts about justice and its relations to other moral concepts."(1958,194)

In contrast, the justice as fairness account of the third period, while held to be "complete" as a "political" conception, is decidedly non-comprehensive in terms of Rawls' earlier criteria. First, the "problem of justice", as far as we ourselves are presently to be concerned with it, is now in principle held to arise between normal and (fully) active citizens within a Western democratic state, where and

when circumstances favorable to the basic intuitive ideas underlying the structure of such a society persist (circumstances which preclude a global ideal? Rawls does not mention.). Furthermore, those specifiable cases on the contemporary political agenda for which the justice as fairness account would fail to yield judgement are simply to be stricken from the list to which a (political) conception of justice need apply inorder to be complete, thereby ensuring that it is immune to invalidation from those angles. And finally, the whole of the analysis itself, while meant to "apply generally" in its own narrow sense, now requires the concept of justice to play a noticably large, indeed pragmatically absolute, part in the moralities to which it is supposedly given--even though the account refrains from providing much if any positive or specific explanation about the conception's relation to the broader spectrum of moral concepts and ethical issues. In brief, then, the theoretical and practical scope of justice as fairness has shrunk in terms of its applicable social setting, its range of applicable cases, and its concern for resolving the issue of its place in ethics viewed as a whole (if, that is, the "separate questions" qualification is not actually one meant to indicate "secondary" questions). To explain this situation, I will consider what Rawls means by the notion of a "complete" political conception. Given the context of my previous analyses, this consideration will be done in a manner appropriate to bringing it under the light of the exclusions from direct consideration that certain sorts of persons seem (forever provisionally) faced with in Rawls' fairness analysis.

a. Complete Justice: To be complete as a political conception,

according to Rawls, the framework of the analysis must operate so as to characterize the right and the good as fully complementary ideas, even while the former must retain theoretical priority. But first, as a political conception, the characterization of those ideas must be specified in terms strictly appropriate to the basic structure of a constitutional democratic regime. Given that this structure is to be understood as something which is comprehensible (at least "intuitively") independent of any particular comprehensive religious, philosophical, or moral doctrine, the characterization of the right and the good must likewise be free of such influences. This would guarantee that the account could be (intuitively) accepted by those persons who are members of the society it means to address, irrespective of whatever (permissible) doctrines they privately affirm. Rather, as the substantive corollary to the ideas of right and good which the account appeals to, certain fundamental intuitive ideas latent in that society's public political culture would suffice for those persons as the reasons motivating their acceptance of the conception. As the intuitive ideas which (it is now qualified) motivate political thought in Western democracies, respectively affiliated persons' public conception of themselves as being free and equal is seen already to be substantiated by the fact that the constitution which regulates their given nation-state more or less enshrines such to be the case for all of its citizens. However, in order to take full advantage of this formal recognition, citizens must be capable of forwarding claims informed by a political conception which best articulates those same intuitive ideas that the principles of the constitution mean to capture and guarantee.

This requires that for the purposes of political expression these persons have a way to demonstrate that the conception of the good they personally happen to affirm and wish to fulfill is defensible on the common ground of what is publicly accepted to be right. What this means in the first instance is that as a citizen of the given constitutional democracy, it is in principle right that a given person be permitted to pursue his or her given particular conception of the good. If there were in fact no way to demonstrate this, and thereby effect it, then the person would have little or no (political) motivation to be regarded as a citizen.

Therefore, if the institution of the democratic nation-state is to remain a stable one, as one supported by its members, it must be structured in such a way that they are allowed to share a common ground of Right which, in turn, effects their individual capacity to affirm and pursue publicly what each privately views to be his or her own good. But if this common basis is to have any real content and bearing in relation to the basic intuitive ideas of freedom and equality, then there must also be some positive sense in which the accepted idea of the right distinguishes permissible conceptions of the good from those that are not acceptable within the instituted limits of that society. A complete political conception fulfills this sense. It does so by giving expression to the manner in which each citizen's right in the first (moral) instance to pursue a privately affirmed conception of the good must, in the second (political) instance, accord with a complementary affirmation of a public conception of the good, in which all fellow citizens possess the same right. Fundamental to this public conception

is the task of securing the least-advantaged citizens' access to an institutional ground of equality. That is, to be "complete", the political conception must articulate a description of the structural conditions upon which those who are comparatively least benefitted by full and active citizenship would be benefitted to the greatest sufficient degree required for their continued support. Such basic conditions of freedom and equality are, after all, intuitively both good and right. Indeed, to the intuitions of citizens in a Western democracy they ought to be recognized as completely so.

b. A Methodological Decision: In as much as it is a development within the theory as a whole, the significance to be granted to this notion of the completeness of a political conception--that is, its success in articulating the concept of right's relation to the five senses of the good taken up in Rawls' 1988 article--is one which rests on a fundamental methodological decision. The background to this decision reflects in an important way the whole of my reconstruction of Rawls' theoretical development, and may be described in the following manner. When inquiring into ethical issues, whether they be in the form of specific cases or one of the more general conceptions, it would seem to be most common and, likewise, reasonable for one to begin by assuming that (at least in some implicit sense) the issue at hand shares a certain theoretical interdependence with the complete genre of ethical issues. Or in other words, as a discerning moral agent one has come to the issue with a categorically prior sort of interest in mind about it: that it is of the "ethical". Therefore, while a given issue might in itself reflect a more or less unique dimension of ethical concern, in

addressing it there nonetheless remains an ongoing discursive interest in being able to say something about how one's appraisal is at once also relevant to ethics sui generis. One is consequently faced with accounting for two levels of concern: what is the "ethical" versus what is the given "issue". A third concern (and yet, initially the immediate one) is that of examining how the former two may be described as interdependent--as, that is, an ethical issue. This latter concern, however, seems naturally to depend on having already at least outlined the conditions pertinent to the former two. Nonetheless, at the same time--and here is where the methodological decision begins to surface--while addressing either of the first two concerns, it is always implicit that one's account of the one will be relevant to the other. That is, the "ethical-issue" order of interdependence is taken as given, even while it remains as that to which one's account has not yet directly given itself. As a result, when one brings one's account of the ethical, as genera, to the issue, as a species (or vice versa) one would assume that a methodological connection between the two would already be available from within the perspective of the developed account.

If it so happens that such a connection is either lacking or remains notably insufficient, it may be said that methodologically one is afforded three alternatives: a) start all over again; b) suspend one's initial account, spend some time dealing separately with the other concern, or perhaps a different ethical issue (eg. in Rawls' case, mutual aid), and then take the two accounts and see what adjustments might be made in each in order to connect them; or c) remain more or less convinced by one's initial account of the one concern and re-

define the nature of the other in a way which the already developed account could consistently internalize. A fourth possibility would be to deduce that there must not therefore have been an ethical-issue (or ethical-issue) in the first place--but in as much as the converse was always a given such would not be a rational option, since the grounds for choosing it rest on there originally being that which the option denies. At best one might say that there is something qualified about the issue's connection to the ethical (or vice versa) for which there remains no account available. However, that would just be to say either, i) one's account is incomplete, or ii) its completeness is not affected by its lack of accountability.

For Rawls, the ethical issue is a general one: the concept of (social) justice. Furthermore, it is without exception the issue in each and every work he has ever published.14 In as much as the "ethical" has been addressed by him, it has been given development neither as a separate concern nor in the light of any obviously separate issue, at least in the senses implied above. Instead, in the few instances where the relevance of such discussions are indicated, they remained immediately contextualized by "the" issue--the concept of (social) justice. As it has come to pass, Rawls has without question presented a highly developed account of that issue. But as the third period synopses has demonstrated, it became apparent even to him that his account's relevance to ethics as it is more broadly conceived--to moral theory as well as moral philosophy--was one in which a sufficient connection seemed lacking, and lacking in a generally systematic way. For example, while obviously related social issues--say, the plight of

refugees, or that of the mentally/physically disabled--which would apparently have to fall under some concept other than Rawls' conception of justice, remain in any case distinctly ethical ones, his account has to this point been unable to relate its connections accordingly. Of the above-mentioned alternatives one might take in such a situation, the first two seem clearly not to have been pursued. Rather, Rawls' "complete political conception" would seem to be the result of having pursued the third option. By his wanting to salvage the essentials in his account of the now less general issue--the (political) concept of (social) justice (within our respective Western constitutional democratic nation state)--Rawls has apparently come to redefine the ethical. This is, of course, a crude way of stating the case and I will need to expand on it. But that aside, for the purposes presently at hand I do not mean to imply that such a methodological decision is in itself necessarily wrong, let alone intellectually dishonest. It might even be the one way for an ongoing intellectual project to be consistent. Indeed, I will now proceed to state a case in its favor and then contrast it with an interpretation of Rawls which would suggest that a version of the qualified sense of the fourth alternative was the one pursued--one which I would hold is instead an admission to defeat veiled by rationalizations (in the pejorative sense). To prepare for this, I will first return to the situation of a person faced with the political institution of a constitutional democracy, who is forced somehow to defend a conception of the good so as to pursue it.

c. Moral Geometry: As an ethical issue, in as much as such was always backgrounding Rawls' concerns, the problem confronting such a

person would not in the first period of development have depended upon this person's being a full and active (let alone normal, native-born, or voluntary) citizen of the respective nation-state. To re-elaborate on what would have been consistent with the spirit of his approach at that time (notwithstanding, that is, my earlier critique of group/self-interest), even if a person were outside the morally arbitrary borders of a state's physical territory, there would nonetheless arise a question of justice (again, as an ethical issue) the moment that person came to be adversely affected by one or more of its practices. To bring moral rightness to the issue, the principles of justice would have demanded that the person affected (or an advocate) be allowed the full opportunity to voice his or her reasons for claiming that the state (in the person of its citizens) is engaged in an unjust practice. As logically prior to the justification of the state's constitution, the reasonableness of the two principles likewise transcended the state-structure itself. Hence, the respective citizens' effective sense of justice would (if "complete" as a moral feeling) respond to the affected person's reasons in an accordingly reasonable fashion. Depending on the nature of the case, moreover, the "practice" in which such persons were "participating", and by which the third person was "affected", might in principle even have been the totality of that pursuant to what it is people do when they engage in the role of "citizen". The practice of persons organizing themselves within and in terms of a particular type of state-structure might--at very least in principle, which was Rawls' concern anyway--prove to be like any other social institution, as an activity the structure of which must be justified on an ongoing basis,

according to the principles of justice and in response to how it affects human individuals (a.k.a. "everyone"). After all, the members of the general position were not themselves under the particular restriction of being citizens: "in contrast to the various conceptions of the social contract, the several parties do not establish any particular society or practice; they do not covenant to obey a particular sovereign body or to accept a given constitution."(1958,176) It was precisely this abstracting from any particular definition of the community (or practice-space) to which the conception would apply that was to distinguish Rawls' social contract theory from all others.

Later in the development, in the first formulations of the full fledged OP, the above feature of contextual non-specificity remained more or less in tact--with the one exception that POPs knew they would all be living in the same (closed) society towards which their deliberations were in particular being directed. But in the first cases they did not know which or what sort of society this was to be: "which" was a matter of chance, "what sort" was that which they were in the OP to determine. Except for its mention as a hypothetical and provisional working analogy for our cognitive benefit, the connection to be made between the WOS and a self-sufficient nation-state was to be of a secondary order. The scope of the ideal was not itself territory dependent in any particular way. Rather, well-orderedness was ultimately to apply simply to "society"--however this singularity might be interpreted--and not necessarily (or so he promised) to but the structure of a state, which in reality and out of contingently motivated necessity divides societies (whether nations or families) and/or

encompasses more than one of them. The basic ethical issue retained an assumption about the "ethical" which (in principle) allowed our connecting it to the "issue" at the broadest levels of generality. In Rawls' words, "[w]e should strive for a kind of moral geometry with all the rigor which this name connotes."(1971.b,171) The most obvious connotation would be that, to put an example on it, just as the mathematical dimensions of a malnourished third-world child's stomach are those of the spherical, we might likewise find the moral dimension to measure our having a duty-based obligation of instituting socially just conditions as a response, ...of including such situations under the considerations of our (most-advantaged) social umbrella.

But come the third period and the scope of social justice has narrowed not just more or less but strictly to the physical territory of a nation-state, the history and culture of which are to be proper to that of a modern Western constitutional democracy. The above quote, taken from A Theory of Justice, involved a rigor which would seem hard for Rawls to maintain any longer, and yet he alludes to it again in 1985 (p.239,n.21). But the text leading into that earlier reference would make such a connection highly problematic, in as much as it presents Rawls' theory as directed at something much more relevant to the conceptually more generic ethical ambitions of the first period. After reiterating that the OP is a purely hypothetical situation which means only to illustrate how a part of our moral reasoning and duty may be said to follow principles construed in terms of obligations, he proceeded then as follows:

> One should note also that the acceptance of these principles is not conjectured as a psychological law or probability. Ideally

> anyway, I should like to show that their acknowledgement is the only choice consistent with the full description of the original position. The argument aims eventually to be strictly deductive. To be sure, the persons in the original position have a certain psychology, since various assumptions are made about their beliefs and interests. These assumptions appear along with other premises in the description of this initial situation. But clearly arguments from such premises can be fully deductive, as theories in politics and economics attest. We should strive for a kind of moral geometry with all the rigor which this name connotes. Unhappily the reasoning I shall give will fall far short of this, since it is highly intuitive throughout. Yet it is essential to have in mind the ideal one would like to achieve.(1971.b,121,m.e.)

At the time, his employment of a nation-state model was but a provisional step for the purposes of fleshing out the grander ideal; it was not in itself to be that ideal's sole operant ground.

But the strived-for moral geometry's grounding in the OP undergoes, as has been suggested, a shift. In his Dewey Lectures, Rawls' claim becomes one in which "the original position is not an axiomatic (or deductive) basis from which principles are to be derived but a procedure for singling out principles most fitting to the conception of the person most likely to be held, at least implicitly, in a modern democratic society."(1980,572,m.e.) A psychological probability within an accidental context, in otherwords, is now conjectured as basic to the acceptance of the principles. And a concomitant to that conjecture is one about the very scope of the theory itself. Given that the conception most likely to be held in a modern democratic society is to be the product of basic intuitive ideas implicit in the paternal culture of such a society--the POP culture, if you will, to which the society owes its inheritance of certain predominating principles of political thought--it is only with respect to said culture that the ethical issues of justice might find a morally grounded referent. More specifically,

since that same cultural heritage is, as it happens, one in which the general issue of justice has traditionally been identified as for the most part a political issue, and primarily as the ethic of the nation-state (at least in that tradition's more recent past), it would only be natural that those basic intuitive ideas of freedom and equality by which citizens in modern democracies are most likely to conceive their (political) personhood would, most likely, also be ideas conceived as being coextensive with the horizon of their own nation-state. Consequently, the principles most fitting to this most-likely-to-be-held conception of the person could be accepted as principles delimited for an accordingly confined field of application. Hence the complete political conception is to express the completion of the most predominant role that the concept of justice has been playing in Western political culture. It must describe the ideal conditions which the modern democratic nation-state must fulfill in order to deliver completely its long promised guarantee of fully securing for its citizens a social setting of freedom and equality.

Given, however, the more cosmopolitan social reality that is the order of our day, what might strike one about Rawls' "complete" conception, especially after having considered the body of thought from whence it arose, is not its appropriateness to issues which arise in a nation-state setting, but rather its apparent (perhaps traditional?) dispropriation of concern for comparable issues which arise either independent, in spite, or as a result of that setting. Categories of such issues might be, respectively, a) catastrophy in a foreign territory, b) the lack of an effective form of social membership, or

else the rejection of the prevailing form, amongst certain persons or groups within the nation-state territory, and c) those negative consequences occuring outside the territory which are the result of practices performed by members of it. If such issues were to present themselves as being in the general nature of the ethical (if not, indeed, of justice itself), would a complete political conception not have to be constructed so as to show its connection with other moral concepts and, thereby, to show how it might be capable of contributing to (or at least compatible with) an account of how those other issues might be resolved? Or are such other matters simply "separate questions" that the conception need not anticipate in order for it to be complete in and of itself?

If one were to answer the former question in the negative, and the latter in the affirmative, and also to maintain these positions unswervingly, it would appear a consistent observation to say that one must mean either that one no longer views such other matters to be ethical issues or else that, while those others may be, the issue accounted for is not. ...Or at best, that they are ethical issues to which one's account of a "complete" political conception of justice finds no interdependent connection or relatedness. Were Rawls' response in this vein, it would seem to be the case that his view of the ethical is now a highly fractured one--not so much a 'view' as a 'survey', where his selective focus upon the species "justice" has had the effect of disintegrating the genre "ethics". And yet, the categories of "other" issues presented above are, on the ethical continuum, ones which possess a de facto (and frequently even de iure) relatedness to issues

of domestic social justice. The many other issues found in the body of ethics which are, admittedly, less related (animal rights, abortion, medical and other applications of technology, etc., not to mention more etherial sorts of ethical concern) would be all the less potentially enlightened by his theory. But if such were firmly the case, then the practical moral significance of justice as fairness would seem to evaporate into that of a state-specific modus vivendi, even while this is a result which Rawls has recently taken careful steps to try and avoid. The alternative is that, while remaining convinced by his own theory on the "issue" of social justice, Rawls has come to re-cast his conception of the "ethical". Before turning to the second explicative theme, I will examine the grounds which might support the view that he chose this latter alternative.

d. Partial Ethics: To completely effect the basic intuitive ideas of Western democratic culture in a "moral" sense (not simply, that is, for the purpose of providing a modus vivendi), it is admitted in the end by Rawls to be a co-requisite that one's justification of the political conception be in a particular (even if only implicit) way already a "partially comprehensive" doctrine--where "comprehensive" alludes to the inclusion of "conceptions of what is of value in human life, ideals of personal virtue and character, and the like, that are to inform much of our non-political conduct (in the limit our life as a whole)"(1988,252), and "partial" infers that "[w]e do not state more of our comprehensive view than we think would advance the quest for consensus."(1987,14) Provided we are successful in stating our partiality, it may be the case that we could remain satisfied with a political theory which is the most

reasonable one for the purposes of affording that view a complete practical democratic social structure consistent with it. To achieve such a goal would entail bracketing-off our otherwise effective desire for practical results on those ethical issues about which our partially comprehensive view and the political conception it defends have no immediate connection. In Rawls' words:

> We should not assume that there exist reasonable and generally acceptable answers for all or even for many questions of political justice that might be asked. Rather, we must be prepared to accept the fact that only a few such questions can be satisfactorily resolved. Political wisdom consists in identifying those few, and among them the most urgent.(1987,16)

The suggestion of taking a good measure of intellectual prudence when deliberating about what ought to be done on the long list of things that ought to be done is, of course, an old and well grounded one. But this is not to imply that Rawls does not mean to be offering us anything new; rather, while it is crucial to his project that the substantive aspects of justice as fairness are already intuitively familiar in a broad and public sense, it is just as crucial that its methodological perspective be understood as being much less so. For if it too were familiar, its apparent lack of adherents within constitutional democracies would be a telling mark against the claim that it is the superior procedure by which to articulate our considered moral judgements. Having all along characterized his theory as a "new way" to look at the "familiar", the additional novelty of the final period as a whole is to be found in Rawls' methodologically complete reliance upon a description of the ideal political conception of the person as a citizen in a modern western constitutional democratic state, operating within material conditions favorable to the ethos of such a society.

The pragmatic concessions we are asked to make are nothing other than those which serve to secure such conditions. It remains the case, however, that underlying these concessions there persists a view, albeit a tentative one, to the ideal:

> The hope is that, by this method of avoidance, as we might call it, existing differences between contending political views can at least be moderated, even if not entirely removed, so that social cooperation on the basis of mutual respect can be maintained. Or if this is expecting too much, this method may enable us to conceive how, given a desire for free and uncoerced agreement, a public understanding could arise consistent with the historical conditions and constraints of our social world. Until we bring ourselves to conceive how this could happen, it can't happen.(1985,231,m.e.)

That is, until we construct a reliable way to "uncover the fundamental ideas (latent in common sense) of freedom and equality, of ideal social cooperation and of the person"(1980,520,m.e.), the practical significance of our ethical viewpoints as citizens aculturated in a tradition of constitutional democracy will remain without the benefit of the most reasonable and rational system for securing in common the nature of at least some moral facts about our (domestic) social world.

To read into the above a little further, the virtue in relying upon the basic idea of securing freedom and equality within a nation-state context is that it is ("most likely") grounded in a common cultural experience, whereas basic ideas more directly connected with other moral and otherwise political concerns are (apparently) without such a publicly common basis. On uncovering such a basis, one would be able to explain to others how the priority of the less comprehensive issue of social justice which arises within the modern Western democratic state, as amongst all otherwise ethically general issues, is to be seen in terms of its being the most secure direction for general ethical inquiry

to take when the purpose is to establish moral facts. The other sorts of issues must, it could be claimed (and it would have to be demonstrated), resort to more fully comprehensive and less widely shared doctrines in this quest, thereby creating but a priviledged access to the justification behind what they would establish the moral facts to be. Excluding, naturally, the hegemonic use of state power, the practical result of such private-doctrine justifications could only be that practical results per se would remain hampered by the ongoing contest of comprehensive views. The modest achievement of Rawls' "complete" political conception may therefore be that it clarifies at least a limited range of ethical decision-making, the validity of which can be judged collectively by a society. Even if other ethically general issues remain problematic, at least one would have gained some well grounded headway. And having been accepted, the more specified decisions to be made upon the basis of it could, in a certain practical sense, be taken as "truths" which the diversity of other practice-related ethical inquiries would on the whole have to respect if their conclusions were to be considered as realistic. Even if respected in but a strictly negative sense, moreover; the complete political conception would have afforded the demands of other ethical issues with some comparatively secure measure of constraint not previously established.

e. The Shift: If it would prove to be the methodological alternative he in fact pursued, the above would constitute a redefinition of the "ethical" on Rawls' part in as much as his deep analysis into the general issue of social justice has led him away from a view of ethics

where the issue "relates not simply to the analysis of the concept of justice as common sense defines it, but the analysis of it in the wider sense as to how much weight considerations of justice, as defined, are to have when laid against other kinds of moral considerations."(1958,189) At that time, the "special weight" had by reasons of justice was to be laid against other purportedly moral considerations in the tradition, such as "efficiency", "utility", etc. Rawls' conception itself was to be one made morally more substantial due to those reasons' connection to an ethically comprehensive sense of justice. The ethic of justice was not compromised by limits in the likes of state borders any more than we would properly consider the ethical itself could be:

> Now the moral feelings are admittedly unpleasant, in some extended sense of unpleasant; but there is no way for us to avoid a liability to them without disfiguring ourselves. This liability is the price of love and trust, of friendship and affection, and of a devotion to institutions and traditions from which we have benefitted and which serve the general interests of mankind.(1963,299,m.e.)

In the third period the liability and the special weight have effectively merged into a more efficient (read: pragmatic) context of institutions and traditions from which we as free and equal citizens have benefitted and which serve the general interests of the citizens in our respective modern Western constitutional democratic regimes. The ground of moral feelings through which one recognizes both an obligation and a natural duty to be concerned about the justice of institutions has in a definite sense given way to grounds for making the account of the general issue of social justice more relevant to the practicalities of our more immediate political sphere.

The redefinition is essentially that of bringing the ethical out of the sublime and more into the ignoble. But that said, in as much as even the most exhaulted conceptions of the ethical would reserve claim to at least some correlation with practical effect, Rawls' vulgarization of those "universal" ideals more generally connected with our moral feelings might just as reasonably be considered their redemption. For if by such a pragmatic turn both the pedantically disenchanted and the piously ineffectual amongst our citizenry could recognize a way in which to initiate moral reforms that (for once) was consistent with our given social reality, then the "ethical" and its "issues" might be brought to an interdependence which makes at least some of the changes they demand attainable ones. That is, rather than viewing it as a vulgarization in the vulgar sense, one could view Rawls' "more modest proposal" simply as a reasonable and rational acknowledgement of the merit had in a lack of pretense about grand moralities which allow us lots to say but not much to do. The positive effect, then, of the OP's veil could be in its vailing of the ethical as a whole down into an immediate connection with the practical demands of resolvable issues--namely, the political questions most pertinent to Democratic nation-state justice. While this shift may even be said to be in the rank of that culturally aberrant form of idealism which turns ideals on their head (or, as the case may be, on their feet ...or flat on their back), we could with good reason ignore the need to examine, say, its ontological foundations, etc. Rather, the sufficient justification would be that such a view brings into the realm of concrete possibility the sort of society which, to compare for a moment with Nietzsche, is no longer hampered by that

mistaken use of philosophy where, "instead of seeing logic and the categories of reasons as means for fixing up the world for utilitarian ends ...one thinks that they give one a criterion of truth about reality."15

Such a reading of Rawls would, furthermore, allow us to re-connect him with important motivations in his own past where, for example, his perception of the problem with utilitarianism was not its basic project, but rather its lack of a fully public way to construct its social effect on a concept of right--that is, a way to connect the good with the morally permissible, such that practices like slavery might not be afforded any (purportedly) ethical justification. As the most prevalent form of moral justification in (British/North-American) political culture, utilitarianism has not distributed justice in a way which accords with our sense of justice. The slave, by whatever contemporary manifestation of least-advantageness he or she may occur, must as a practical ethical matter in a constitutional democracy be able to confront the respective form of the master on common ground--a sort of ground upon which either's defense stems out of an initial consensus. To realize this consensus, the plurality of moral outlooks amongst and between masters and slaves (management and employees, Orange County and East L.A., Wall Street and factory row, etc.) must be acknowledged, not belittled or conveniently misrepresented. The fact of pluralism is simply that "differences as to how strictly various defences are to be taken, or just what defences are available, are likely to arise amongst persons with different backgrounds..."(1955,168), or as he now puts it, different social starting-points. The emergent empirical fact to be

considered in this respect is that the nation-state context we find ourselves living in is presently the only established institutional common ground for social action we have been given. Therefore, to be morally efficacious in such an environment we must further understand, as Rawls observed early on in a somewhat more general way, that

> [...] action is what it is in virtue of the practice and to explain it is to refer to the practice. There is no inference whatsoever to be drawn with respect to whether or not one should accept the practices of one's society. One can be as radical as one likes. But in the case of actions specified by practices the objects of one's radicalism must be the social practices and people's acceptance of them.(1955,169)

A complete political conception of justice, even while it is markedly less than comprehensive in the broader ethical sense Rawls once hoped for, may be said to have a facticity which is confirmed by our present social reality. By attending to pluralism as a given state of affairs, and to the Western constitutional democratic nation-state as the state in which those affairs are given, it is arguable that Rawls' non-comprehensive methodology serves to make inquiry into the ethical as relevant (for "us") as is currently possible--and to make the ethical relevant is, surely, always an issue of utmost urgency. The question which arises out of this shift in method becomes, instead, one connected to the substantive justification underlying one's estimation of what it is that in fact are the most relevant ethical issues in the contemporary arena. To consider Rawls' position on that score I will now turn to the second of my explicative themes.

ii) Ideological

In as much as Rawls is right to say political wisdom consists in

identifying the most urgent among those few questions of political justice that can be satisfactorily resolved, there nevertheless remains a question about one's political vision. For to specify properly what would generally be the more relevant questions, how their (satisfactory) resolution might occur, and which of these resolutions are the most urgent, one must have a view to where such determinations would lead, and to why that direction is more reasonable than others. As an issue conjoined to such a view, when "in affirming a political conception of justice we may eventually have to assert at least certain aspects of our own comprehensive (by no means necessarily fully comprehensive) religious or philosophical doctrine" we are, according to Rawls, responding to a situation in which "someone insists, for example, that certain questions are so fundamental that to ensure their being rightly settled justifies civil strife."(1987,14) It would be reasonable to assume that other examples might, for instance, involve persons who do not view the nation-state as the basic structure, whereupon the whole establishment of liberty of conscience, equal political liberties, basic civil rights, etc. is put into critical review. To respect such persons as self-originating sources of valid claims while at the same time holding that the stability of the nation-state is a key feature of a successfully complete political conception, the "partially" comprehensive aspects of that conception's justification--which are, apparently, to be held in reserve in case of such occasions--must already be sensitive to the sorts of disputes for which they are likely to be employed. Without such anticipations it becomes that much more likely a prospect that the conception itself would be unsuccessful in

gaining (and guaranteeing) the requisite threshold of political adherence.

a. Partial Plurality: It is not unreasonable, I would argue, to suggest that a significant percentage of a modern democratic pluralist society's population have at least one or a few ethical issues about which they are, for better or worse, firmly committed in some way.16 For example, those who consider abortion to be no different than outright murder, or those who claim a certain linguistic or cultural status to be absolute in the face of practices which (at least in their view) deny this, are hard to placate.17 Among their numbers are at least some who could be a real source of civil strife if the political conception (as a permanent social choice) were to allow such practices to continue. The same could be said about their opponents, were it decided that the relevant practices are not permissible. Of those cases where the conception cannot be justified in a way convincing persons in light of their pet partially comprehensive views, a capacity to accept it at all is in practical reality put into serious question. One might take this as a basic fact of moral psychology. At minimum, this fact would seriously hamper such persons' ever developing an "independent allegiance" to the conception, even if they initially accepted it on the contingent basis of its functioning as a modus vivendi (cf. 1987,22). Each instance of such failure, especially where persons are in principle prepared eventually to defend their view in a politically active way not permitted by the public conception (which they have not fully accepted anyway), would lead proponents of the conception simply to deny such non-converts' basic rights as moral persons "and to assert the kind of

thing we had hoped to avoid."(1987,14) That is, enforce our comprehensive view and be done with the matter--assuming, of course, "we have the means such as those provided by the state through which to execute this. Such cases of a Realpolitik resolution are, naturally, situations not to be conceived as arising in a WOS; they could, however, be analyzed in terms of an ongoing general position. In any event, if the non-convert can still be conceived of as a moral being, something less than political realisms ought to ground our response. Indeed, in a pluralist society those cases where a moral person contests the prevailing judgements of the political order might even be viewed as the litmus tests for the conception of justice underlying it. As previous analyses have suggested, in a society which purports to be an "open" one the advocate of strangers' rights (if not the stranger) might be considered as providing the ultimate form of such a test, at least if there are grounds to recognize in the stranger a moral being.

Accordingly, those determinations of political wisdom where "certain matters are taken off the political agenda" such that "they are no longer regarded as proper subjects for political decision by majority or other plurality voting"(1987,14,n.22), when occuring as corollaries to determinations about which questions are both resolvable and most urgent, have a distinct sort of importance. Whether one wants to view them as being but potentially based on ("partially") comprehensive views, or as necessarily so, they must in both principle and reality nonetheless be acknowledged as connected to an ideological programme of some description. Not to be able to acknowledge this about the conception could very well constitute a violation of the full publicity

condition. In other words, persons must in principle be able to ask what partially comprehensive view is being used as the justification for the conception. More importantly, however, to deny there even being such partiality would be to deprive society as a whole of a fundamentally critical perspective on the political agenda that the conception serves to regulate. To accept the conception without an awareness of its (in connection with one's own) ideological background set-up would be consistent with simply accepting it from the start as a more or less comprehensive doctrine--something, that is, which one most typically does not so much "accept" as already maintain. The potentially false (and imprudent) assumption would be that the full justification and one's own ideological perspective are not contradictory: eg. "You mean to say, Mr. President, that your policy of 'humane deterence' of refugees receives moral justification in terms of this conception? What, then, ever led me to accept it?"

To put it in another way, if the basic intuitive ideas of freedom and equality, in as much as they are apparent in the predominant political culture (the tradition of which it is Rawls' project to re-conceive, on a hypothetical basis, as culturally homogeneous at the intuitive level on the matter)18, are not only just those "most likely to be held" in our society, but also those about which we might have but a merely intuitive familiarity, then we would be more adequately prepared to reflect on the appropriateness of a particular interpretation of them if the given political conception were formulated such that the ideological aspects of it were put up front.19 Its appropriateness would have to be measured against both our own considered judgements and

firmly held convictions (i.e. our particular brand of comprehensive partiality), and the world in which we live, or "in view of present and foreseeable circumstances." (1988,267) Wide reflective equilibrium's mandated concern for all levels of generality would necessitate not only our testing the political conception against our own conception (and vice versa), but both of these against the ongoing general order of human affairs as we find this to be emerging.

b. Philosophy for the Doomed?: It may be the case that, in fact, both of the former two levels of concern (the politically "complete" one and that of our own) fail miserably in light of the directions human practice is actually going--but even that is something we do need to know. It would be reasonable to consider whether, in fact, it is the case that, "for us, there exists no reasonable and workable [tradition-constrained] conception of justice at all" and that "the practical task of political philosophy [as conceived by Rawls] is doomed to failure."(1980,570) For if in fact such is the case, we would be better off having a way to realize it so that we might begin the reasonable and rational groundwork for a radical critique of our Western constitutional democratic culture, and its basic governing ideas, than we would be in keeping a cultural veil of ignorance drawn in the vain and unvigilantly hypothetical hope of corralling ourselves off from intruding moral nightmares. A conception based on the latter strategy of shaded enlightenment would, to put it mildly, contradict Rawls' prescription that in a WOS "maintenance of the social order does not depend on historically accidental or institutionalized delusions, or other mistaken beliefs about how its institutions work."(1980,539) The

mistake of believing that one's society's institutions do not work within the context of certain fundamentally ideological parameters which are challenged by cultural transformations from both within and without is a fatal one. Even if the effect of this observation were taken to have weaknesses for those who happen to be full and active normal (self-interested) citizens in priviledged Western nation-states, the essential effect would surely still be that such intellectual obfuscation is fatal to one's gaining any advanced perspective on the ethical issues that most urgently need to be addressed. For it may be the case that in order to revise our rational life plan in the most reasonable (i.e. morally grounded) way, given the failings of our particular social ethos, we need access into a way by which we might become aware of and, subsequently, revise the whole of our culturally determined ideological perspective. Those who are already at least "partially" aware of such a way might have serious ideological problems in accepting the culturally veiled conception.

c. Broadening Reflections: That said, it need not be the case that one be "fully comprehensive" in the construction of the political conception in order to acknowledge the force of the above. Just the opposite is true. To be prepared reflectively to re-structure one's view in a way which allows it freely to admit the ideological prescriptions underlying it is perhaps the most consistent and honest (even if ironic) way by which to articulate it in a truly non-comprehensive fashion. The completeness offered by allowing for such admissions is to be seen in the sense that one would then be more inclined toward laying all cards on the table, including those one may

or may not have been aware were "partially" up one's sleeve, thereby placing oneself in a more convincingly open position to establish an effective overlapping consensus--especially where this is to be pertinent to "long-run equilibrium". Formal assurances of no hidden agendas tend not to work as well. Indeed, by constructively opening one's position to the possibility of trans-ideological disclosure and discorse, one might even learn something new--perhaps something about how to make the ethical more relevant, or else about which issues are both most urgent and, in fact, resolvable (eg. our daily spare change and its relation to one in five childeren in the world suffering from malnutrition). The extent to which Rawls' position would be accomodating to these observations is therefore an important question.

To consider that issue it must be kept in mind that the nation-state is a social institution. The view which aggrandizes its status to that level which the Church aggrandized (-es?) the institutional aspects of its religion is commonly known as the nation-state ideology--where the state is religiously conceived as one's national church, and defended accordingly on the basis of "reasonable faith". But to say that a view is ideological is not, of course, to say that it is ipso facto false (or "unreasonable"). As additional, however, to what the view is prepared to say about itself, such a determination may indicate the possibility of the view's inability to develop an inner life not repressed by its own assumptions. The political conception that does not admit its own ideological nature is like the priest who acts under the pretense that he is asexual--both have an increased potential to practice something other than what they are meant to preach, and to

"affect" persons accordingly. Rawls' critique of utilitarianism includes something of this angle of reproach. The extent to which such doctrines fail to have any upfront way of stating categorically that practices such as slavery are unjust, except through their ad hoc appeal to moral feelings, becomes the extent to which their principles permit those practices occurence. This would help explain why utilitarianism was on principle rarely, if ever, accepted by the politically organized lower ranks of society who, despite their numbers, remained on the less-than-greater side of happiness.

Rawls' constructivist framework is meant to be designed so as to guarantee that the morally impermissible is not permitted by the very principles upon which the conception itself is grounded. Abstracting for the moment away from his liberal democratic conclusions and/or assumptions, the rudiments of the construction as it is presented--and as it is presented as an integral part of a complete political conception--would appear to suggest an acknowlegement of the notion that, especially for the purely institutional regulation of the political realm, ideologies should be publicly open to view. For instance, if according to the complete political conception's (as yet still promised) full justification and proper construction, persons and associations are expected to suspend their private agendas in the name of morally grounding that conception and, coincidentally, to serve or at least respect the end of social cooperation had at the level of the nation-state, it would not be inconsistent with the construction for them to be able to demand, in turn, that the nation-state association (in the person of those justifying a conception of it) suspend its

agenda and serve/respect those ends of social cooperation appropriate only on levels other than its own. For to deny such a reciprocal claim would be to imply the possible righteousness of a hegemony of state-interest over other associational, communitarian and individual points of view, many of which may have a "complete" moral justification of their own for not necessarily respecting state borders in the first place. It would be equivalent to allowing an insular legal system to dictate what the moral (political) system ought to be. Where long-run equilibrium is concerned, history would tend to suggest that such dictation is not a politically wise or prudent strategy to take.

Defenders of a nation-state ideology might respond by saying that theirs is not an ideology at all or that, if it is, it is not one in the sense that other associational points of view are. Unlike national socialism, for example, a conception of distributive social justice which might be appropriate to, say, a nation-state form of socialism involves a third term ("state") which separates the national from the social. As a modern day version of the separation of church and state, it might be claimed, the former sort of separation uses the construct of the state in a purely instrumental fashion. That is, it divides in as neutral a way as possible those interests which are of a cultural nature (proper to notions under "nation")20 from those which are to be operant within the economic realm of civil society (proper to "socialism"--or to "liberalism", "capitalism", etc.). In that way the various primary goods are properly distinguished, and thereby most appropriately distributed. Income and wealth, freedoms of movement and occupation, the powers and perogatives of offices and positions of responsibility

(civil/legal/economic) and the social bases of self-respect (national/cultural) are re-aligned under, and underwritten by, the efficiency of a state's political system of basic rights and liberties. In this sense, the state is justified by its being the most efficient institution for accomodating civil and cultural concerns through political means, while providing also a (neutral) political end. Its having a moral justification is beside the point, so long at least as cultural and economic ends are efficiently provided for under it.

But in as much as the nation-state is to be the fundamental common ground of morally sanctioned political discourse in Rawls' framework, such could not be his position. For Rawls, the (modern Western constitutional democratic) nation-state must already be viewed intuitively, and not just hypothetically, as an intrinsically good (ideal) construct. If the state were but an instrumental ground, then there would be no possible moral justification for identifying its structure as the primary subject within which political wisdom ought to find its most urgent resolvable questions of justice. Both national and civil society would have at least as much claim to this status. Hence, left only with the issues themselves, it would be equally reasonable for one to focus upon, for example, the United Nations rather than the United States--especially in as much as there are at least some resolvable questions taken up by that former institution which would appear intuitively to be far more urgent as ethical issues than any arising in the latter.21 Indeed, many of the world's problems might even be made all the more resolvable if there were not good arguments around for believing the state to be more than but an instrumental

institution for separating and accomodating various national and economic social interests. Rawls' reasons for presenting the nation-state as unseparated serve to promote our viewing it as the intrinsically good ground for institutional determinations about politial activity--a political agenda which reveals a necessarily ideological aspect of his theory as a whole. The ideology is that the nation and the state are to be taken as effectively coextensive, as mutually supporting buttresses of the political conception, even while what is culturally national about the state may be more or less similar to other Western constitutional democratic states.22 Despite their otherwise national/cultural (let alone economic) fraternity there are, for Rawls, apparently no most urgent and resolvable questions of justice which might arise in or with other Western constitutional democracies (let alone societies or states other than these) that could over-ride those regarded to be most urgent and (domestically) resolvable within one's own democratic nation-state. Just as the basic intuitive ideas of our political culture are to be taken--in accordance with their traditional interpretation--as pertaining first and foremost to the basic structure of the state, the political conception cannot be concerned (primarily, in any case) with questions and issues not captured within and delimited by that structure. Those arguments Rawls employs in this third period to ground such a conception are notably distinct from the "non-ideological" ones he used in the first period.

The theoretical space Rawls commits to historico-cultural justifications has finally reached explicit proportions in this final period of development. In previous periods, such a mode of presentation

was held for the most part (and certainly ideally) to be a provisional exercise, where and when it was openly entered into at all. The "next step" in arriving at a "reasonably complete ethical theory" would, it was previously claimed, ultimately transcend such limitations (cf. 1971.b,7-17). Now, however, those limits serve to generate the whole moral-cum-political description of the person, and on that basis those of society and of the concept of justice as well. Nevertheless, it is clear that his tending to conceive a conception of justice appropriate to the formally abstract notion of a nation-state framework began well before the development of his shifting to these sort of explanations. If it is the case that Rawls' eventual choice of justifying his complete political conception on primarily cultural grounds occured as a way by which he could continue defending those aspects of his more universalistic moral conception which could survive a deprovisionalized commitment to the formally abstract framework of a state, it would be important to consider what sort of assumptions he was led into making about "culture". That is, as the means by which he came to justify his rarification of the more broadly ethical issue of justice, as a moral conception, into that of the leaner and more modest issue of (what he describes as) a political conception, there may be implicit in his cultural analysis (to the extent he offers one at all)23 a parallel rarification which is prejudicial to both the concept of culture and to the actual cultural story. In any event, for the present purpose it is sufficient that there are grounds for arguing how it is that Rawls' current conception of justice is to be viewed as a repletely ideological one. I will now directly specify the extent to which it can be said

Rawls must acknowledge this fact. To do so I will consider one particular aspect of his construction: the notion and role of "general beliefs".

d. Ideology as General Belief: As Rawls presents it, the penetration of currently held general beliefs (and likewise, generally uncontroversial scientific claims) through the OP's "thickest possible veil of ignorance" is to be permitted by virtue of the Kantian motif that POPs "are not to be influenced by any particular information that is not part of their representation as free and equal moral persons with a determinate (but unknown) conception of the good, unless this information is necessary for a rational agreement to be reached."(1980, 549,m.e.) Thus, for the sake of a general agreement which is at least "Rational" (even if thereby less Reasonable) we ourselves must, in as much as the OP has given structure to our thoughts, acquiesce to the governing status quo of general beliefs. Now while Rawls defines in the abstract what is to be meant by "general beliefs"--i.e. specific information that is popularly accepted--he notably refrains from explicitly specifying which of his own operative beliefs he takes to be of that order.24 The hypostatized beliefs, whatever they may be, are to be justified in line with his parallel hypothesis that there are certain scientific, moral-psychological and social theories, as well as common-sense (cultural) perspectives, that enjoy public acceptance as uncontroversial in Western democratic societies. It is to be assumed that for the purposes of arriving at a (rational) political consensus these theoretical perspectives and those of general belief would not contradict the (reasonable) ideas of freedom and equality--in so far, at

least, as he presents them. Indeed, the latter are to be taken as the culturally underpinning beliefs according to which all the others attempt to be coherent. They themselves are not mere general beliefs, but ideas which structure intuitive thought and upon which general beliefs may be viewed as reasonable (or not).

Hence, in the persona of a POP, one is not free to forward claims based on beliefs not already within the purview of those respectively general ones to be made available in the background set-up of the OP. While one may be "at liberty to agree to any conception of justice available to [POPs] as prompted by their rational assessment of which alternative is most likely to advance their interests"(1980,524), one is not free to maintain beliefs which are not already generally accepted. Whether or not there are reasons for believing one's belief could, should, and would become generally acceptable is something of a moot point. As reasonable as one's (partially comprehensive) justification for such (statistically?)25 unpopular beliefs may be, they are to be sequestered to the realm of one's "private identity", since they could just as well be said to thwart the possibility of arriving at an internally rational consensus--a consensus, it is to be believed, rational for within a nation-state.

Competing with the above aspect of Rawls' method, as a moral person one is supposed to be respected as a self-originating source of valid claims--a being whose conception of the good is "not merely a system of final ends but also a view about one's relation to others ["all"?] and to the world ["the" world?] which makes these ends appropriate ["morally"?]." (1980,544,m.e.) Apparently, therefore, in what is Rawls'

own construction of the hypothetical case, which assumes as an uncontestably general belief that the basic structure of the nation-state should be the primary subject of justice and that this belief is coincidentally buttressed by uncontroversial theory, a serious anomaly would seem to arise for those persons who wish to maintain "certain kinds of belief, even when we as individuals are convinced they are true"(1980,542,m.e.) but which would contradict Rawls' hypothesized status quo. That whole hypothesis, however, is supposedly to remain subject to our political judgement as this becomes honed in wide reflective equilibrium. Thus, our own beliefs must play some ultimate role in the end, independent of whether or not they are state-centric in their political vision.

Whether or not such faith in the nation-state actually remains in social reality as a general belief supported by uncontroversial theory, it clearly seems to be Rawls' belief. Put in terms appropriate to its being seen as an ideological perspective on the matter, in order to maintain such a belief the technicalities of how one might meaningfully become morally responsible for one's own ends within but the limits of a nation-state context, and yet also remain in fact a self-originator of valid claims, must out of necessity be put aside. That is, the question as to how one conceives justice and agrees to a complete political conception, while also being someone to be regared in the first instance as ideally a fully autonomous free and equal moral person, and not as someone ultimately governed by the heteronomous presence of general beliefs, is displaced on Rawls' view by the question of how to articulate a "defence of reasonable faith in the real possibility of a

just constitutional regime."(1987,25) As what he lists as the third aspect of freedom, "responsibility for ends", persons' moral capacity for "adjusting their aims and ambitions in the light of what they can reasonably expect and of restricting their claims in matters of justice to certain kinds of things", combined with their recognition that "the weight of their claims is not given by the strength or intensity of their wants and desires, even when these are rational", is left as but a vague notion: "to explain these matters here would take us too far afield."(1980,545,m.e.) Through his own conception of what are in fact the relevant general beliefs, Rawls' political conception goes on to become "complete" only by virtue of his assuming an ideological stance. The closure by supposed general belief of the political system to that of the nation-state turns his interpretation of the (actual) world which is to make one's conception of the good appropriate, as well as the whole moral image of self-origination designed to operate in that world, subordinate to the general beliefs which a state system itself originates--and which it supposedly justifies under the guise of the moral standing it receives when, as a nation-state, it is to be viewed (hypothetically) as a self-sufficient culture.

But as I see it, neither general beliefs nor (uncontroversial) scientific, moral-psychological and social theories, nor common sense perspectives, support this ideology any longer. And even if they were to, I would claim that the individual moral agent has the responsibility to create controversy when, in his or her view, the existing moral order has stagnated under the institutuional rule of general beliefs that serve only to deny what is of utmost urgency. The other side to the

project of justifying the paternal function of a society's culturally normative valuation must be that of securing within it the maternal function of creating conditions for valuations which negate the morally limited effects of that justification on what are closer to universal grounds. In other words, if the representation of POPs' agreement is to be saved from resulting in something no more meaningful than that appropriate only to those who desire to be thralls of what is essentially the tradition-bound side of the existing social order, there must be a concomitant way of representing the active moral agent in terms appropriate to being a member of the ongoing mediation--or, let us say, a MOM--sensitive to the possibilities to be expanded upon in the emerging moral order. The possibility of such a scenario was shown to be at least implicit in the general position of Rawls' first period, but that possibililty has been closed off by his limiting the theory's focus to a political institution which in social reality is losing its traditionally preeminent position. My final and concluding section will on that basis sum up my developmental reconstructive evaluation of Rawls' thought.

CONCLUSION

"The aims of political philosophy depend on the society it addresses."(1987,1) For the purposes of my concluding critique I will forego the formality of specifying in detail the many reasons for saying so and simply forward that, as the subject of all his primary intents and purposes, the aims of Rawls' political philosophy are both dependent upon and addressed to the United States of America--that institutional plurality of political entities which function nonetheless as "one nation indivisible, with liberty and justice for all."1 That which is generally believed to characterize the nationhood of America is, like the petitio principii of Rawls' third period that is addressing it, a culturally liberal/communitarian melting-pot brimming with pursuits of happiness. Of this most "normal" Americans are I suppose in general, if increasingly hesitant, concensus. Even while not being a citizen of that society's Rawlsian basic structure, I would assert nonetheless that as a moral agent I have both a social obligation and a natural duty (if indeed there is such a thing) to be as politically concerned about its public conception of jusitce as, say, any Harvard professor. For, in as much as there is an "American" conception of justice--and I will take it as accepted that Rawls' is "intuitively" representative--its influence in the real social world affects both myself, my civil society and national culture, and the political order of the world as a whole. Indeed, it determines them in large part. I cannot participate by means of the vote in the institutionally closed state structure which is governed (more or less intuitively) by that conception, but it may be said that in terms of the broader superstructure which that state

largely controls I have both national/cultural and civil/legal/economic affiliations of extensive proportions with it.

In contrast, there are persons in the world who have much less of an affiliation, and yet who are in critical ways merely "affected by"--in the sense of being dependent upon and vulnerable to, without being acknowledged within--the American conception of justice much more extensively than myself. In essence, there is a strong case for saying that a global substructure persists to which that general conception is particularly relevant, ...an overlap without concensus. Indeed, it may be said my cultural and economic associations are so intricately bound to those of my southern neighbors that many of those third parties are affected by practices in which I am a de facto participant. Within this broader arena, even though the more established state-centric political, economic and legal institutions may not be particularly efficient as a system through which I may make claims on the American institutional structure, I would venture to say that there is an emerging moral order of advocacy and mutual aid in which I have the truly voluntary choice to participate.2 This "ongoing" order is making my potential input into structural reform a (comparatively) promising possibility, occuring as it is as a global initiative to be placed in the face of more established and discretely American interests, ...often in face even of those interests peculiar to nation-states per se.

Complementing this emergence of what might be likened to an ultra vires human consciousness, I would claim that there is a growing set of concerns for addressing persons found within our own legally national and socially multinational culture, who have traditionally remained

excluded from political participation, economic influence, or meaningfully direct social acknowledgement--persons who have been deemed as not possessing the normal capacities required to be both morally autonomous and full and active citizens.3 In other words, on the view I am presenting, but which Rawls does not seriously consider, the whole normative social order which in turn grounds our more established political norms is being actively challenged by an order that has not yet manifested itself in the form of a norm (hence it is equally a dis-order). The self-originators and active proponents behind the emergence of both this domestic moral development and that of the previously mentioned global one, I would argue, are persons whose moral reasoning is significantly less tradition-bound and rather more anomic than those of persons defending the established ideas of their culture.4 That is, the reasons such "radical" (or "saintly", depending on one's stripe) persons offer have typically been taken by the status quo of intellectual opinion not to count as viable reasons at all, eg. as reasons not to be found on their own short list of traditional theories. What these reasons often entail--and, in as much as they are generically "radical" ones, have traditionally entailed--is an exacting measure of material loss on the part of those who enjoy the full benefits of being active as normal participants in that which has come to be established as the most advantaged order of social practice. Counter to this general emergence, not surprisingly, is an ongoing reaction to "new" moral reasons and initiatives. This reaction tends to be as strong as is the dominant (POP) culture itself. But rather than an open contest, the culture-based reaction is a largely unconscious one, ...often well-

intended, but almost always articulated in an obfuscated manner. When it is most successful, it is usually presented according to those ideas by which the "traditional" remains still a "popular" point of view, even amongst the proponents of radical change. The success of the reaction is a measure of the strength of the culture in its postponing a morally creative social rethinking about what in fact are the basic issues to be resolved.

Freedom and equality are both traditional and widely popular concepts, and each are obscured by reactionary moral reasoning accordingly. Whether such is done with intention or not--I would presume not--it seems clear that the moral reasoning underlying Rawls' political thought involves a reactionary impulse against the as yet fledgling (and by no means predestined to be accomplished) moral orders that have been emerging even before he first took on the ethical issue of justice some four decades ago. His early writings would seem to be much more in the spirit of such change, but his methodology was not suited for it. Indeed, the initial choice of making justice his issue, tradition-ladden as that concept tends to be, had the built-in danger of involving a variety of conservative methodological influences. The extent to which he subsequently focused on it alone has only further indicated the reality of such dangers. For instance, from the theoretical spectacles of the tradition-dependent concept of justice by which he views the matter it is not at all surprising that Rawls has come to disapprove of a globally relevant conception of justice, since for him this would entail the notion of a "world state". By importing into the issue the sort of reasoning that already views the nation-

state as the ideal model, the prospect of a globally relevant practice-structure could not from such a perspective help but be "either an oppressive autocracy, or continually disturbed by open or latent civil wars between regions and peoples."(1987,3,n.3) Given the limits imposed by maintaining a nation-state line of reasoning, the global status quo would seem all the more justifiable, apparent as it may often be as a contest of oppressive autocracies, and as continually disturbed by open or latent (and what he once projected might be made "just") wars between states and their citizens.

What, however, if we were to insist upon grounds for transforming our moral reasoning that would allow us to have a perspective on basic institutional structures which served to demote the whole isolationistic strategy of nation-state-interest down to the ranks of but one among the many forms of social institutional arrangement which need to be opened up? A perspective, that is, which denies the state's being the form within which the structure of other social institutions are to be morally reconceived. The separation of nation-state and political system is an emerging fact of our time, even while its emergence is currently being regulated to some extent according to the interests of certain predominant nation-states (just as the major churches regulated their own separation, making sure that at the very least God was officially represented as the POP of states' constitutions). The positive aspects of this effect are, I would contend, taking hold both domestically and internationally, but their fulfillment remains contingent upon the sort of moral transformation which I have suggested Rawls' theory in the end acts against. To conclude my thesis, I will

encapsulate the sense in which Rawls' complete political conception of justice is complete primarily as a barrier to allowing more urgent political questions the feasible resolution it has long been becoming practically, let alone theoretically, possible for them to have.

I suppose that from Rawls' point of view, and those of tradition-disposed normative theorists, the problem with the notion of viewing the moral order as something which has an essentially emergent (non-teleological) quality is that it deprives their general methodology of the key criterion necessary to it. For as qualitatively emergent there is no tradition-established normative context to which such theories might reliably attach themselves and stably develop. Thus, even if theorists in the same general tradition as Rawls might admit, in camera perhaps, that both history and contemporary developments would support the view that moral order is a paradoxically emergent phenomenon, in as much as they adhere to tradition-primed normative analysis there remains apparently no way for them to connect their projects to account for this fact--unless, of course, they are prepared personally to give a perspective by asserting a new normative form, and consequently to weather the charges of being utopian. Otherwise, it would from their perspective seem more prudent to articulate a normative description of that which is more or less already firmly established, since this allows resort to a defense based on that which is already generally accepted--a very democratic way indeed to dispose of one's theoretical opponents. Such a strategy is effective against theorists who define their role as theorists to be one which must remain constrained by the kratos of the demos that currently governs theory. But there remain others who wish

to replace intellectual demagoguery with arguments based on new and emerging grounds, and thereby PREPARE grounds relevant to the prospective future. Their rationale is that the former "prudent" order of defense and the normative argument itself tend to become indistinguishable, such that the end result is nothing new gets said. Coincidentally, the task of making moral theory more practical than it currently proves to be remains thwarted, the theory having become enthralled by the governing order of norms already available in the established normative universe. At this point, a utopian theorist might in retrospect be found standing firmly on the ongoing ground, higher up hindsight hill, having won the war even while losing every battle. For at least something new might be said to have taken place in such a theory, even if it in fact has as yet been established in "no place". The door is of course open to find a place for it, or as Rawls once put it, "to further just arrangements not yet established..."(cf.1971.b,115) In any case, if Rawls was once something of a utopian, he closed his own door by preferring to arm his theory for battles rather than for a war. It may at least be said that in doing so, he makes it clearer for the critical utopianist to see where the ground of tradition is currently most unstable--albeit an unwitting contribution.

There are, nonetheless, utopian aspects to Rawls' theory. It may even be said that his OP and WOS are permiated with such dis-placing thoughts, notwithstanding his more explicit later denials of this. In Rawls' view, justice as fairness would be utopian (read: impractical) only to the extent that "there are not sufficient political, social, or psychological forces either to bring about an overlapping consensus

(where one does not exist), or to render one stable (should one exist)."(1987,18) Such sufficiency depends upon established normative forces such as those more firmly instituted aspects of the American nation-state establishment, and not those which I have referred to as emergent and as yet without a reliably overlapping normative description. It is basically his dependency on the former half of that difference which lead Rawls to chart his scholarship away from the sort of utopianism needed for a theory to float in ongoing waters. He has instead moored his account during America's receeding high tide of good fortune. But having firmly anchored himself in that nation-state's established bedding, and thereby closed his scholarship's theoretical sluices off from the presently developing current of prescriptive forces, Rawls must assume the implausible forecast that the sands of tradition will not shift and pull the ship down.

In other words, Rawls' reliance on a nation-state normative context leaves the substance of justice as fairness as all the more utopian in the "impractical" sense. For the domestic state it envisions would seem to be unhopefully displaced in social reality without there being a force to Rawls' argument which addresses those forces that currently strain nation-state systems from without, including that of the American. Likewise, in terms of the strains from within, we are left with Rawls' imagining there to be enough practical space for eventual adjustments in citizens views, which "take place slowly over time as the political conception shapes comprehensive views to cohere with it"(1987,19,n.28), such that in case "an incompatibility later be recognized between the political conception and their wider doctrines,

then they might very well adjust or revise these doctrines rather than reject the political conception."(1987,19) In as much as his prospectus does not even poke at the global situatedness of the nation-state, whereas "wider doctrines" tend not to see such issues as a "separate problem", a rejection of the conception would in all reality most likely take place well prior to the time it would require to effectively (re-) insulate citizens' political reasoning to within the borders of the state. Indeed, Japan might even own all of North America before then.5 Latin American illegal immigrants and refugees would almost certainly have erased the hypothesis of America's southern borders with the actuality of their own bare feet.6 Ironically, they might eventually be arriving only to find a country whose economic system (if it is even domestically controlled) has collapsed due, in part, to its banking system's institutional incapacity to handle the default in repayment of loans made to the countries from which these persons have fled. But that would be a small matter, in as much as the environmental catastrophies caused, in part, by the ongoing decimation of many of those countries' rainforests (undertaken, in part, to pay the interest on their loans) would have in turn decimated both the natural and the historical "good fortune" which has allowed the American superstructure those material conditions necessary for its continued survival.

Needless to say, least-advantaged native-born normal American citizens (and for that matter, all others as well) would have been well advised if long before this they had stopped to reflect on the "long-run equilibrium" of basing their public political conception on but the internal structure of their nation-state. Demotivated by an intuitive

awareness of where such a society would be leading itself, perhaps it would be more reasonable for such persons to abandon the whole Protestant work ethic of full and active citizenship upon which the conception depends, and "find a way to support themselves" so they may "surf all day off Malibu", all the while happy in their independence from the doomed social order to accept that they "would not be entitled to public funds."(cf.1988,257,n.7) Choosing the "standard working day of extra leisure" over the established order of primary goods, even if this might by default necessitate finding petti-nefarious sources of income, could equally by default become more reasonable and rational than remaining a "normal citizen" of a nation-state too unequipped and too irresponsible to restructure itself in accordance with the global realities which it has had a hand in creating. After all, if left unattended to, such realities would rule out the state structure's tending sufficiently to its least-advantaged (normal, full and active) citizens. And for the "really" least-advantaged (eg. the ghettoized "underclass" in major urban areas) e pluribus unum would not, in any case, have ceased being the locus dilecti. Better to have surfdom and a criminal record than live in the serfdom of a criminated system.7

It might be objected that I have not properly respected the hypothetical nature of Rawls' account. In fact, however, my point has been that if a hypothetical approach is to be "reasonable" it must be able to connect sufficiently with the world as we know it. If anything, perhaps Rawls' account is not sufficiently hypothetical itself. Through its "cultural" assumptions about moral-psychological normality and about the normative appropriatness of a nation-state context, Rawls'

hypothesis would seem to be directed at conclusions which in the not-so-long-run will have no sustainable connection with the moral and political problems that fundamentally disorder our current social reality.

But even if a discrete American nation-state emancipation were considered a viable possibility, it seems that this could be achieved only through further global emaciation. That, however, is why such is no longer on its own a viable alternative. That is why, in the sort of overlapping consensus which the world now demands, closed-systems conceptions do not have sufficient grounds upon which to justify their bias-by-default against "others". A conception that is reasoned on the "ongoing" basis of its attempting always to comprehend that which has so far remained beyond its limits is the sort most relevant to persons who wish to accomplish (or at least understand) their "natural duties", let alone the broader scope of their own society's established obligations to other peoples. Rawls' political liberalism, on the other hand, hypostatizes an order of social good at the nation-state level which is to be taken as good in and of itself:

> No doubt the requisite conditions become more difficult to satisfy as societies become larger and the social distance between citizens becomes greater, but these differences, as great and inhibiting as they may be, do not affect the psychological principle involved in realizing the good of justice in a well-ordered political society. Moreover, this good can be significant even when the conditions for realizing it are quite imperfect; and the sense of its loss can also be quite significant, as is made clear when a democratic people distinguish different periods in their history, as well as when they take pride in distinguishing themselves from nondemocratic peoples. But I shall not pursue these reflections.(1987, 271)

And yet, one need not pursue them very far to realize that the "requisite conditions", the "psychological principle", the "pride in

distinguishing themselves", etc., involve a state-interest which operates to exclude a consideration of non-citizens' status as moral beings, ...to doom them to a long-run of nondemocracy. Is that what a democratic people take pride in? What, then, distinguishes this pride from that of the Ancient Greeks' pride in distinguising themselves from the conquered peoples who became their slaves? Such a pride might find some potentially justifiable grounds amongst the people of a least-advantanged (i.e. non-conquering) nation, but in a most-advantaged one it constitutes little more than moral laconism.

From a truly "Reasonable" moral point of view, the social space of the political context should expand in as much as that context has secured advantages for its participants--especially if those advantages happened already to be dependent also on the securing of disadvantage for persons and societies excluded by that context (eg. ranging from that of their being denied the opportunity to participate even while otherwise being within it, to that of their being adversely affected by the external practices required to support it). As they currently stand in our own social reality, the circumstances of justice are on radically emergent grounds. What we need is an analysis of the "ongoing", not (merely) of the status quo. The task must be that of giving a critical theory of society (eg. by challenging it with a utopia conceived on the basis of technological and other material conditions that in fact exist but which currently serve a systematically closed interest), combined with a theory of active moral agency, ...of principles for individuals which allow them to rely less on the normative order appropriate to their society's established institutions, and more on their moral power

to institute a new social establishment. As Rawls himself once observed, in "Two Concepts of Rules":

> Practices are set up for various reasons, but one of them is that in many areas of conduct each person's deciding what to do on utilitarian grounds case by case leads to confusion, and that the attempt to coordinate behaviour by trying to foresee how others will act is bound to fail. As an alternative one realizes that what is required is the establishment of a practice, the specification of a new form of activity; and from this one sees that a practice necessarily involves the abdication of full liberty to act on utilitarian and prudential grounds.(1955,162)

Whatever the utility of prudently grounding the concept of justice within the territory of the American nation-state, it is bound to fail. Instead, our presently persisting lack of a clear conception of social justice is most clearly an indication that a new form of activity needs to emerge. What that activity might be, however, I will leave with you as a "separate question".

ENDNOTES

INTRODUCTION:

1. Richard J. Arneson, "Introduction", Symposium on Rawlsian Theory of Justice: Recent Developments, Ethics 99 no. 4 (July 1989), p. 695.

2. John Rawls, A Theory of Justice (Cambridge, Mass.: Harvard University Press, 1971).

3. It was interesting to discover, subsequent to my own evaluations in this respect, that Brian Barry has recently indicated a similar point of view: "As a matter of intellectual biography, A Theory of Justice may be seen as a point of transition between the coherentism of Rawls's earlier article (based on his Ph.D. dissertation) [...] dating from twenty years before the book, and the constructivism of the Dewey lectures and subsequent articles."(B. Barry, Theories of Justice, vol. 1, University of California Press, 1989, p. 278-279)

4. John Rawls, "Justice as Fairness: Political not Metaphysical", Philosophy and Public Affairs 14 no. 3 (Summer 1985), p. 234.

CHAPTER ONE:

1. The Philosophical Review 60 (1951), pp. 177-197.

2. To paraphrase (cf. 192-193), these principles include the following:
(i) each set of conflicting claims observes the same principles;
(ii) all claims are worth consideraton in the first instance;
(iii) each claim has equal integrity in the first instance;
(iv) an attempt to satisfy claims should be undertaken before any modification of them is considered;
(v) claims are ordered according to their strength, as related to characteristics in the bearer of the claim;
(vi) given equally strong claims and all cannot be satisfied, an "impartially arbitrary" selection is to be made among them.

3. The Philosophical Review 67 (1958), pp. 164-194.
In 1957 a less extended account of justice as fairness appeared under the same title in the Journal of Philosophy LVI, pp. 653-662. Following it was a critique by Everett W. Hall, entitled "Justice as Fairness: A Modernized Version of the Social Contract" (pp. 653-670), the substance of which Rawls attended to in 1958.

4. The Philosophical Review 72 (1963), pp. 281-305.

5. This distinction from "institutional" concerns relates to a distinction not clearly formulated in Justice as Fairness (1958). In his article "Justice as Reciprocity" (in Utilitarianism: John Stuart Mill: With Critical Essays, Samuel Gorovitz ed., N.Y.: Bobbs-Merrill Co., 1971), Rawls extensively revises the 1958 account to include the distinction in concern for "social institutions" and "moral persons".

6. This account of the general position might be compared with those of Robert Paul Wolff ("A Refutation of Rawls's Theorem on Justice", Journal of Philosophy 63 [1966], pp. 179-190) and Brian Barry ("On Social Justice", Oxford Review, no. 5 [1967], pp. 29-52), each of which discuss how the members of the general position might not agree to Rawls' two principles at all. But as I go on to mention, Rawls himself would appear fully prepared at this time to accept such an implication.

7. For example, even if the relevant order of association were that of mutually self-interested business firms, it would surely be possible that some would have an interest in advocating the recognition of third parties if this would mean the securing an expansion of the "common" market to be shared by "everyone". Similarly, if the associations were instead churches, at least some would have a very real interest in any potential for bringing others into their fold who are not currently represented. The case of "families" might on first blush seem to be a more clearly insular "self" interested association--if, at least, they are imagined not to have religious, business, etc., interests which are a part of their set of family interests. Nor could they be "extended" families, in as much as that would exponentiate a networking of interests throughout and outside the established order. It may seem that, for the limited purposes of his account, Rawls means these families to be something on the order of a nuclearized grouping of 'Hatfield and McCoy'-like entities, except maybe for their shotguns (and maybe their illiteracy). The sufficiency of conditions for assuming such is, however, far from clearly established.

8. cf. 1971.b, p.114f.

9. cf. 1951, 177f.

10. It is perhaps significant to mention here that in what was (as far as I can determine) the first published critique of Rawls' thought, Anthony Mardiros, in "A Circular Procedure in Ethics" (Philosophical Review 61 [1952] 223-225), cites his appeal to a class of moral judges as "an attempt to rehabilitate intuitionism in ethics" in which we "presume that competent moral judges make correct intuitions", this being nothing other than

"merely a complicated way of saying: Virtue is what is intuited to be virtue by the virtuous man." Perhaps Rawls' subsequent proletarianization of the judges to the status of a general position of ordinary family-interested blokes might have been due in part to that scathing review.

11. cf. 1951, pp. 186 & 189; see also Rawls' "Two Concepts of Rules", The Philosophical Review 64 (1955), pp.3-32.

12. Compare, for example, with W.G. Runciman, Relative Deprivation and Social Justice (Berkeley: University of California Press, 1966), where instead of employing Rawls' two principles in their formally stated sense, it is simply forwarded that "If a person claims that an inequality to which he is subject is unjust, he must be able to give an affirmative answer to the question: 'Is this claim based on a principle to which you would have subscribed even if, as far as you know, you were as likely to be a loser as a gainer by its implementation?'"(253)

13. That is, while the account of moral personality (cf. the sense of justice) and the account of justice as a virtue of social institutions are at a certain level methodologically distinct, they borrow from each other and must ultimately dovetail.

14. To view human association as a structurally static objective circumstance would allow one to conceive Rawls' first principle as if it were a contradiction of his second. This is perhaps how N.M.L. Nathan, in The Concept of Justice (London: Macmillan Press, 1971) read Rawls' 1958 article, when he equivocates the first principle with that of "Equals should have equal liberty", and then "Equals should have equal liberty and the most extensive liberty which is compatible with this", and finally "Equals have the most extensive liberty compatible with a like liberty for all", ...whereupon the second principle becomes "Two people are equal only if the burdens and benefits which are alloted to them by the social institutions to which they belong can be reasonably expected to work out to their equal advantage". His critique of Rawls thus becomes one where "you could say that a practice or a social institution was unjust because it gave equals an equal amount of liberty, but each person more liberty than he deserved." Viewed, in contrast, as an ongoing activity, this reading would be falsified by the fact that it fails to acknowledge the sense in which human association does not pre-establish an upper limit to human liberty, only the objective structure of institutions which treat individuals equally by treating them as groups do this.

15. I do not mean to suggest either that as so construed Marx's thought is therefore wrong or that such interpretations of Marx are in all respects correct. Indeed, it is due largely to them

that Marx himself came to the conclusion that he was not a "Marxist". And subsequent branches of Marxist thought, such as that offered by the Frankfurt School, argue that the substance of his theory was by no means delimited in that way, even if the language he happened to use in expressing it would suggest the opposite.

16. cf. The Canadian Charter of Human Rights and Liberties. A question is whether this ought to be read as "the supremacy of God" and then "the rule of law", or as "the supremacy of both God and the rule of law". In either case, the extent to which one is agnostic about divine authority might become the extent to which one questions the authorities who underwrite the Charter itself.

17. My point here also bears on certain critics of Rawls, such as John Charvet, who in his article "The Idea of Equality as a Substantive Principle of Society" (Political Studies, Vol. XVII, No.1, pp. 1-13) writes, "...the whole direction of egalitarianism's effort, as is clear from its origins in those totally alienated men--the free and equal men of the state of nature--has been an attempt to conceive of a man's existence as a man apart from his existing under the necessary restrictions, limitations, and dependencies involved in being a member of a human society, and consequently in being a member of the human race."(13) Charvet views Rawls' assumptions that "his men are roughly equal in power and ability and that no one knows what his future position in the practice will be" as serving "merely to reintroduce the state of nature by the back door."(5) Subsequently, "Rawls's argument would only be true if his men engaged in the practice do not have established positions in the practice and so consequently are not engaged in the practice at all."(6) The later introduction of his OP, of course, addresses this criticism in large part. But both the criticism and Rawls' handling of it fail to incorporate what might roughly be described as an existential concern for humans as individuals.

18. 1971.b, p. 114f.

19. Petr Kropotkin, Mutual Aid: A Factor of Evolution, Boston: Porter Sargent Publishers, Inc., [no edition date given]

20. Indeed, the group-centric notion of the general position is not unlike that of Gregory Kavka's group version of "predominant egoism", as outlined in his Hobbesian Moral and Political Theory (Princeton: Princeton University Press, 1986),pp. 57-58. As Rawls means to avoid giving merely a modus vivendi account, this comparison is one he would not have relished.

CHAPTER TWO:

1. Besides the discussion Rawls directs towards it in Chapter VI of A Theory of Justice, the issue of civil disobedience is also attended to in the following articles:

"Constitutional Liberty and the Concept of Justice", in Justice: Nomos VI, edited by Carl J. Friedrich and John W. Chapman, New York: Atherton Press, 1963, pp. 98-125.

"Legal Obligation and the Duty of Fair Play", in Law and Philosophy, edited by Sidney Hook, New York: New York University Press, 1964, pp. 3-18.

"The Justification of Civil Disobedience", in Civil Disobedience: Theory and Practice, edited by Hugo A. Bedau, New York: Pegasus Books, Inc., 1969, pp. 240-255.

2. "The conception of the original position is designed to meet the problem of the appropriate status quo."(1971.b,134-35,n.10)

3. In Economic Justice, edited by Edmund S. Phelps, London: Penguin books inc., 1973, pp. 319-362. This work was published as the combination of the following two articles into a complete account:

"Distributive Justice", in Philosophy, Politics and Society, 3rd Series, edited by Peter Laslett and W.G. Runciman, London: Basil Blackwell, Ltd., 1967, pp. 58-82.

"Distributive Justice: Some Addenda", Natural Law Forum 13 (1968), pp. 51-71.

4. Briefly, the essence of these alternatives are as follow. In natural liberty, "the first part of the second principle is understood as the principle of efficiency (Pareto optimality) adjusted so as to apply to social institutions, or, in our case, to the basic structure of society; and (b) the second part is understood as an open social system in which, to use the traditional phrase, careers are open to talents."(334) Or in other words, those with natural advantages are naturally to be allowed more advantage.

In liberal equality, the system of natural liberty is modified "by adding to the careers open to talents the requirement of the principle of fair equality of opportunity."(335) That is, those with natural advantages are naturally to be allowed more advantage, but on the further condition that the opportunities by which this occurs are distributed on an equal basis.

In natural aristocracy, "no attempt is made to regulate the effects of social contingencies beyond what is required by formal equality of opportunity, but the advantages of persons with greater endowments are to be limited to those that further the good of the poorer sections of society."(337) Such is the case of social obligation which the noble class historically used as the pretext for its disproportion of advantages. Aristotelian magnanimity and the general idea of philanthropy are thereby

invented as duties which (accidentally, of course) happen to justify the wealth of the wealthy.

5. Presidential Address to the American Philosophical Association, Eastern Division, 1974. Proceedings and Addresses of the American Philosophical Association 48 (1974-1975), pp. 5-22.

6. If the basic idea of wide reflective equilibrium is not already clear to the reader, it will be briefly expanded upon later in the explicatory section. Among the secondary material on this procedure, the following might be referred to: Norman Daniels' "Reflective Equilibrium and Archimedian Points", The Canadian Journal of Philosophy 19 (1980), 83-103, "On Some Methods of Ethics and Linguistics", Philosophical Studies 37 (1980), 21-36, and "Wide Reflective Equilibrium and Theory Acceptance in Ethics", The Journal of Philosophy 76 (1979), 256-282; R.M. Hare, "Rawls' Theory of Justice, I and II", Philosophical Quarterly 23 (1973), 144-155 & 241-252; Leslie P. Francis, "Responses to Rawls from the Left", in John Rawls' Theory of Social Justice, H.G. Blocker and E.H. Smith eds., (Athens Ohio: Ohio University Press, 1980), 463-493.

7. For a more detailed discussion of these conditions, refer to A Theory of Justice, section 23 ("The Formal Constraints of the Concept of Right").

8. The notion of a WOS was already touched on in the first chapter. As an element developed most directly in this second period, it is essentially the idea of the social setting in which a theory's conception of ideal moral persons would inhabit. It will become significant that for Rawls, such habitation requires ideal moral persons to be conceived as "citizens" of this setting rather than, say, its being a setting which does not exclude moral persons through the provisions and enforcement of more or less arbitrary criteria of membership.

9. Indeed, as we shall see in the third period, Rawls comes to rely on a "partial" dependence on comprehensive moral-religious-philosophical views which it so happens cannot be justified within the constraints of moral (or what later becomes "political") theory as Rawls defines it.

10. In Values and Morals: Essays in Honor of William Frankena, Charles Stevenson, and Richard B. Brandt, Alvin I. Goldman and Jaegwom Kim eds., Dordrecht, Holland: D. Reidel Publishing Company, 1978, pp. 47-71..

A preliminary version of the above work was published under the same title, in The American Philosophical Quarterly 14 (1977), pp. 159-165.

11. Basically, the notion of a present-time entry involves our imagining POPs to exit the OP and enter the WOS during a shared time frame, rather than their confronting the possibility of each entering different and unspecified generations within the historical range of that society's development. The justificatory aspect to this characterization is that POPs deliberations and the ideal WOS are relevant first and foremost to the here and now of you and I, such that we need not run the danger of imagining them as involved in applications for future circumstances that we ourselves can neither correctly deliberate about nor understand as practically relevant to our given social circumstances.

12. The origin of this phrase is attributed to Brian Barry, who, in his 1978 review of Wolff's **Understanding Rawls** (in **The Canadian Journal of Philosophy** 8, 753-783), concludes with some general reflections on the expanse of scholarship directed at Rawls' theory.

13. This observation is, if not obvious, supported by the fact that the most discussed works on Rawls tend to depend largely upon issues arising out of the difference principle interpretation. See, for example, B.Barry, **The Liberal Theory of Justice** (Oxford: Clarendon Press, 1973); R.Nozick, **Anarchy, State, and Utopia** (New York: Basic Books, 1974); R.P.Wolff, **Understanding Rawls** (Princeton: Princeton University Press, 1977); R.Dworkin, **Taking Rights Seriously** (1977); C.Beitz, **Political Theory and International Relations** (Princeton: Princeton University Press, 1979); M.Sandel, **Liberalism and the Limits of Justice** (New York: Cambridge University Press, 1982), ...all of which have in common fairly developed treatments of various technicalities concerning the difference principle which are used to illustrate their more general critiques of Rawls. This is especially true of Wolff's analysis.

As well, in **John Rawls and His Critics: An Annotated Bibliography**, J.H.Westbrook, D. Snook, D.T.Mason eds., (New York: Garland Publishing, 1982), the subject of the difference principle is the largest single entry in the index of concepts.

14. The implications of his apparent commitment to the "vast majority" of mankind throughout the first period would seem to indicate that he would want to include himself as a person so concerned, so the allowing for representations of that sort should not have appeared inconsistent with the formal descriptions he actually presents.

15. cf. "Justice as Reciprocity", in **Utilitarianism: John Stuart Mill: With Critical Essays**, Samuel Gorovitz ed., New York: Bobbs-Merrill Company, Inc., 1971, pp. 242-268; and as reprinted in **Choice and Action: An Introduction to Ethics**, Charles L.

Reid ed., New York: Macmillan Publishing Company, 1981, pp. 292-323.

As noted earlier, this work is an extensively revised version of "Justice as Fairness" (1958), which among other things recasts in terms of "reciprocity" certain aspects of what had earlier simply been attributed to the idea of fairness. Reciprocity is offered as the third term describing the relation of justice "as" fairness, whereby their fundamental connection is to be conceived in terms of how they both reflect the concept of reciprocity while applying it to conceptually distinguishable circumstances: "justice to a practice in which there is no option whether to engage in it or not, and one must play; fairness to a practice in which there is such an option, and one may decline the invitation."(292) The relevance of this distinction is essentially the same as that which Rawls makes in A Theory of Justice between obligations and natural duties, to which I have already made reference. For the natural duty of addressing ourselves to those merely "affected by" our social practices is surely not one which we have the moral option to opt out of, at least not in that sense of option which relates to circumstances of fairness. To be moral, the circumstance of addressing the merely affected is not simply an invitation we can decline, as if we were passing up a dinner party or a game of cards.

16. The first actual restatement of the first principle in this form occured in "The Justification of Civil Disobedience" (in Civil Disobedience: Theory and Practice, Hugo A. Bedau ed., New York: Pegasus Books, pp. 240-255). However, it was then done without explicit use of the priority rule interpretation.

17. Rawls himself is ambiguous on this matter, at times suggesting that once the full description of the OP were worked out it would apply to the international system as a whole, at others suggesting that a global OP might occur as a second stage after nation-state OP's had taken place, while at others that the "law of nations" is a completely separate matter.(cf. eg. 1971.b,377ff.; 1978,70).

The general issue of global/multi-national implications in Rawls' theory has found its own place in the "Rawls industry". Amongst the most notable are the following: Robert Amdur, "Rawls' Theory of Justice: Domestic and International Perspectives", World Politics 29 (1977), 438-61; Brian Barry, The Liberal Theory of Justice, Ch. 12; Charles Beitz, Political Theory and International Relations, Part Three, also "Justice and International Relations", Philosophy and Public Affairs, 4 (1975); Peter Danielson, "Theories, Intuitions and the Problem of World-wide Distributive Justice", Philosophy of the Social Sciences 3 (1973), 331-8; Michael Walzer, Spheres of Justice (Oxford: Martin Robertson, 1983); Thomas Pogge, "Rawls and Global Justice", The Canadian Journal of Philosophy 18 no.2 (June 1988), pp. 227-256.

18. The principle of fair equality of opportunity reads as follows: "Social and economic inequalities are to be arranged so that they are [...] attached to offices and positions open to all under conditions of fair equality of opportunity."(1971.b,302)

19. Charles Beitz's analysis of the problem of social well-orderedness, where natural resources are treated as the same sort of morally arbitrary advantage as are Rawls' "natural talents and abilities", is an excellent portrayal of how a Rawlsian framework would necessarily have to interconnect the dualities of national and international distribution.

From a somewhat different angle, Michael Walzer illustrates how membership in a WOS (as a nation state) is in and of itself a primary good--moreover, the primary primary good from the perspective of both its established members and, most evidently, that of persons who have become displaced by the state-centric dividing up of the world which as a result left them as members of no state at all (i.e. refugees).

20. For an account of the necessity for such an argument in the Rawlsian framework, see M. Walzer's Spheres of Justice. For instance, Walzer observes that "the idea of distributive justice presupposes a bounded world within which distribution takes place: a group of people committed to dividing, exchanging, and sharing social goods, first of all among themselves."(31)

21. For the purposes of Rawls' more restricted descriptions of moral theory, it is important to observe that by having to constrain our considerations not only to what has become familiar to us through Western philosophical tradition, but also just to those philosophies which would clearly suggest a WOS model constructible in the form of a State, possible conceptions from such thinkers as the 19th century anarchists, Nietzsche, and the more contemporary existentialists, structuralists, post-structuralists, etc., are for all intents and purposes to be dislodged from our thoughts and placed, perhaps all too ironically, on the other side of the veil of ignorance. This is not so obviously the case when considering the notion of an ongoing general position, but in as much as the OP is committed to accounting for the structure of the nation-state, it is even arguable whether Marx's thoughts could be given fair consideration. For his conception of social well-orderdness is ultimately one where the state itself "whithers away". Except for rather selective readings of Marx, these excluded theoretical approaches tend for the most part to be considered by the schools of Western philosophical tradition which Rawls typically considers (what might generally be described as British/North American analytic pragmatism) as some how "abnormal". But that, of course, depends already on one's own point of view--as does wide reflective equilibrium as well.

22. "Reply to Alexander and Musgrave", The Quarterly Journal of Economics 88 (1974), pp.633-655.

23. cf. "Fairness to Goodness", The Philosophical Review 84 (1975), pp.536-554.

CHAPTER THREE:

1. I trust I may be excused from specifying the breadth of such issues, which by 1981 were spread throughout well over 2500 articles, books, essays and other publications.(cf. Westbrook, et al). These range from issues of feminism to enviornmentalism to health care to organizational theory, international relations, urban planning, primary and secondary education, technophobia, race relations, nuclear warfare, ..., to name just a few.

2. This observation is true in as much as Rawls' view that "comparative study of the well-ordered societies is [...] the central theoretical endeavor of moral theory"(1974.c,13) already presupposes a closed-systems approach which is much less consistent with other ethical inquiries, such as into the duty of mutual aid.

3. Rawls frequently states that his concern for the limited arrangements of but political, economic and legal institutions within a state context is to be taken as a prepatory consideration for the analysis of social practice on other levels (as was indicated in chapter two). The very assumption that this is an appropriate context in which to initiate the grounds for such an analysis, however, is as far as I have understood him insufficiently supported. For the political, the economic, the legal and the social are not coextensive, and while the social might be necessarily connected directly with moral agency, it is far less obvious that this is so with the rest--even where these are firmly established. If Rawls were a supporter of Realpolitik analysis, a stronger position might be available to him. But in as much as he forwards a quasi-deontological rights-based account, such grounds are not within his legitimate reach.

4. Notable exceptions include his (apparently abandoned) inquiries into civil disobedience, conscientious refusal, and "just" wars (to be found principally in A Theory of Justice).

5. The Journal of Philosophy 77 No. 9 (Sept. 1980), pp. 515-572.

6. cf. 1974.c, p. 9.

7. Philosophy and Public Affairs 14 no. 3 (Summer 1985), pp.223-251.

8. The origin of this phrase relates to Rawls' 1980 work which was, after all, presented as the fourth series to the John Dewey Lectures held by Columbia University. Beyond that, the theoretical substance of that appelation to Rawls' development in thought specifies his more explicit and pervasive concern for a "practical" rather than idealistic description of justice as fairness--which is not, of course, to say that he was not previously concerned with pragmatic issues, or is no longer concerned with presenting an ideal.

9. Oxford Journal of Legal Studies 7, No. 1 (1987), pp. 1-25.

10. Philosophy and Public Affairs 17 no. 4 (Fall 1988), pp. 251-276.

11. To recall: "(i) basic rights and liberties, of which a list may also be given; (ii) freedom of movement and free choice of occupation against a background of diverse opportunities; (iii) powers and prerogatives of offices and positions of responsibility in the political and economic institutions of the basic structure; (iv) income and wealth; and finally, (v) the social bases of self respect."(1988, 257)

12. This observation was taken up during the second period as well, but in an even more tangential fashion. For example, in **Fairness to Goodness** (1975.b), Rawls writes that "some conceptions will indeed be excluded, and this can happen in two ways: (a) they may be in direct conflict with the principles of justice; or (b) they may be admissible but fail to gain adherents under the social conditions of a well-ordered society."(549) It was a central point of my analysis of that period that the social conditions of a well-ordered society would exclude open-systems conceptions either because (a) they come eventually into direct conflict with principles of nation-state justice, or (b) their formal admissibility would not be supplemented with the social conditions for nurturing the "abnormal" attitudes they require in order to flourish, such that their being permitted conceptions would not be meaningful in the sense they would require to survive.

13. For an indication of both alternatives, see Gerald Doppelt, "Rawls' Kantian Ideal and the Viability of Modern Liberalism", in Inquiry 31 (Dec. 1988), 413-419. Doppelt reviews a variety of positions from which Rawls has been critiqued (both liberal, being the first alternative, and communitarian, as the second) and after proposing that Rawls himself has finally come to rest on the foundation of a Kantian "meta-value" of rational self-determination, a critique is given which involves Rawls' failure to account for culturally basic ideas other than his Kantian notions of freedom and equality. Such competing ideas include those of Judaeo-Christian, bourgeois and patriarchal ideals

which, when given equally selective consideration in an OP framework, have equally forceful grounds to back them up. In Doppelt's words, "the elimination of ideological bias from the original position does not provide a basis for excluding the rival ideals of the person which, I have claimed, are implicit within the shared background of modern social and political judgement."(443) We are left with not only Rawls' account being plausible, but "any of the other political standpoints or theories of our time, such as those proffered by Marxism(s), feminism(s), non-Marxist radicalism, conservitism(s), etc."(448)

14. This might in some respects be considered less than true of "Two Concepts of Rules" (1955), but it would be hard to argue that the thesis of this work is not also a thesis directly determined by that which is germane to Rawls' particular conception of justice.

15. Friedrich Nietzsche, as quoted by Richard Rorty, "Method, Social Science and Social Hope" in Interpreting Politics, Michael T. Gibbons ed., (Oxford: Basil Blackwell, 1987), p. 254.

16. And yet, it might at the same time also be reasonable to say that they are on the whole culturally encouraged to be indifferent about their own beliefs--to repress them in favor of the "democratic" administration and re-presentation of them. Thus, in our own form of democratic society, to act on one's heartfelt beliefs puts one in risk of being labelled anti-democratic, ...even when a more correct accusation might be that one is "radically democratic".

17. See, for example, George Grant's position against Rawls (and liberalism in general), in English-Speaking Justice (1974). Liberalism's "unthought ontology" leads society, according to Grant, into permitting practices such as abortion which directly deny the validity of thoughts had by opponents of the practice. Now while I myself tend to be on the other side of the issue, the central thrust of Grant's critique would still be acceptable to me.

18. Rawls variously characterizes the essential debate as being between eg. moderns (Locke) and ancients (Rousseau), libertarians and egalitarians (eg. 1985,227).

19. Such a strategy might complement Rawls' construction in a way that could address Doppelt's (1988) critique, even if it would not fully solve the paradox he presents.

20. For a discussion of the role of the nation in this regard, see David Miller, "The Ethical Significance of Nationality", Ethics 98, no.4 (July 1988), 647-662.

21. And yet, the current UN format might, perhaps, be criticized as being more of a united nation-states in as much as it adopts the recognition of those national borders which are the remanents of colonial imerialism, and much less so the tribal (etc.) societies which were brought under rule by the strategic governance of those divisions.

22. For a discussion of Rawls' assumption of cultural homogeneity, see Will Kymlicka, The Value of Cultural Membership (Oxford University Press, 1989).

23. Rawls refers at times to the sort of "tolerance" that arose out of religious wars, but that is about the extent of his analysis of culture. He relies otherwise on his selective short list of traditional moral philosophies to keep him on an appropriate cultural bearing. That the historical status of the nation-state may have depleted what those theories afforded it is apparently not a serious question for him.

24. It is not difficult, of course, to imagine that these would relate to "the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family."(cf.1971.b,7)

25. At times Rawls talks of conceptions of the good in terms such as "if numbers are not the measure of success--and why should they?--many pass the test with equal success."(1988,267) The question as to whether this would also apply to beliefs in "general" is clearly not approached with the same pluralistic respect.

CONCLUSION:

1. My reasons should not be difficult to deduce: Rawls is an American, and therefore asks us to "look to ourselves and to our future, and reflect upon our disputes since, lets say, the Declaration of Independence. How far the conclusions we reach are of interest in a wider context is a separate question."(1980, 518). Accordingly, the conception seems much less appropriate to, eg., the EEC, a country with a Quebec, Thatcherized and class-entrenched Britain, "White Australia", or to most any other Western democracy. The "outbreak" of democracy throughout the Eastern Block and elsewhere since 1989 only further complicates the matter.

2. See, for example, B.E. Harrell-Bond, Imposing Aid: Emergency Assistance to Refugees, (Oxford: Oxford University Press, 1986). For a consideration of the broader range of issues, see Van B. Weigel, A Unified Theory of Global Development, (New York: Praeger, 1989.

3. It has been a relatively recent phenomenon that has allowed women, blacks and other identifiable minorities to participate directly in the political process. Such an emergence, however, can hardly be considered as caused by the democratic process in and of itself, or by the culturally intuitive basic ideas appended to it. Rather, this was much more the result of "radically" democratic wills overcoming the hegemony of tradition-constrained thinking, combined with favorable social conditions which arose as accidents of history (eg. women's economic enpowerment after homefront contribution in WW2; the influence of "soul" music in popular culture; television and mass media's sometimes just benevolent dictatorship of national consciousness during such periods as the civil-rights movement in the American south). In as much as the tradition-constrained closed systems of democratic process survived (and continue to survive), it is more apparently the case that there has and continues to be a recurrent vote against such change (eg. the ERA amendment) which forces the protagonists to "disobey". But a system that forces moral persons into a situation of disobedience can hardly be said to be relying upon democratic ideals, even if it might uphold them for its own purposes. For a further consideration refer to H. Marcuse's "Repressive Tolerance" in R.P. Wolff, B. Moore, H. Marcuse, A Critique of Pure Tolerance, (Boston: Beacon Press, 1969), p. 81-123.

4. In the realm of social theory, I would include as a recent example of such thinking that of Roberto Unger, see: Politics, A Work in Constructive Social Theory (New York: Cambridge University Press, 1987); in the realm of religion, liberation theologists such as Matthew Fox, see: Religion USA (Dubuque, Iowa, 1971); in the area of science and technology, Paul Feyerabend: Science in a Free Society (London: Verso, 1982); and in politics and economics, Mikael Gorbachev would have to be acknowledged as an effective (even if troubled) proponent of radical change, see: Perestroika (New York: Harper & Row, 1987) .

5. For a controversial, but no less influential assessment of the historical dimension of current political-economic structures, see Paul Kennedy, The Rise and Fall of the Great Powers, (New York: Random House, 1987). In reference to the burgeoning strenght of Japan in the global political and economic landscape, pages 458 to 471 are most enlightening. But as a more general point, the concluding paragraph of the book's epilogue begins as follows: "Each of today's large Powers--the United States, the USSR, China, Japan, and (putatively) the EEC--is therefore left grappling with the age-old dilemmas of rise and fall, with the shifting pace of productive growth, with technological innovation, with changes in the international scene, with the spiraling cost of weapons, with alterations in the power of balances. Those are not developments which can be controlled by

any one state, or individual."(540) To the extent that Kennedy's thesis is true, the idea of conceiving one's sense of justice in terms of an open-systems approach would seem to be made all the more reasonable.

6. For discussions on the institutional inability of the United States to quell the influx of illegal immigrants, see for example: Peter H. Schuck and Rogers M. Smith, **Citizenship without Consent: Illegal Aliens in the American Polity** (New Haven: Yale University Press, 1985); Joseph H. Carens, "Who Belongs? Theoretical and Legal Questions about Birthright Citizenship in the United States", **University of Toronto Law Journal** 37 (1987), 413-443. For a succinct philosophical treatment of the refugee issue, see Howard Adelman, "Refuge or Asylum: A Philosophical Perspective", **Journal of Refugee Studies** 1 no. 1 (1988), pp. 7-19. For a much more comprehensive treatment of the issue of human migration and its causes, see Aristide R. Zolberg, Astri Suhrke and Sergio Aguayo, **Escape from Violence: Conflict and the Refugee Crisis in the Developing World**, (New York: Oxford University Press, 1989). In this latter work, it is made apparent how the state-centric political and economic division of the world is a direct cause of various categories of human displacement.

7. Further to this point, on a recent CBC news broadcast I heard the incredibly disturbing statistic that one in four young black males in America are either in prison or on parole. The source reported was a study in **Essence** magazine, which I have been unable to locate.

BIBLIOGRAPHY

Works by John Rawls by year of publication:*

1989 "The Domain of the Political and Overlapping Consensus", New York University Law Review 64 no.2, pp.233-255.

1988 "The Priority of Right and Ideas of the Good", Philosophy and Public Affairs 17 no. 3, pp. 251-276.

1987 "The Idea of an Overlapping Consensus", Oxford Journal of Legal Studies 7 no. 1, pp. 1-25.

1985 "Justice as Fairness: Political not Metaphysical", Philosophy and Public Affairs 14 no. 3, pp. 223-251.

1982.b "The Basic Liberties and Their Priority", in Tanner Lectures on Human Values Volume III, Salt Lake City: University of Utah Press, pp. 2-87.

1982.a "Social Unity and Primary Goods", in Utilitarianism and Beyond, A.K. Sen & Bernard Williams eds., New York: Cambridge University Press, pp. 159-185.

1980 "Kantian Constructivism in Moral Theory" [The 1980 John Dewey Lectures at Columbia University], The Journal of Philosophy 77, pp. 515-572.

1978 "The Basic Structure as Subject", in Values and Morals: Essays in Honor of William Frankena, Charles Stevenson, and Richard B. Brandt, Alvin I. Goldman & Jaegwom Kim eds., Dordrecht, Holland: D. Reidel Publishing Co., pp. 47-71.

1977 "The Basic Structure as Subject", The American Philosophical Quarterly 14, pp. 159-165.

1975.b "Fairness to Goodness", The Philosophical Review 84, pp. 536-554.

1975.a "A Kantian Conception of Equality", The Cambridge Review, pp. 94-99.

---

*Due to the nature of the thesis I felt it appropriate to provide a complete listing of Rawls' publications, and not solely those directly referred to in the text and endnotes. It should be noted that his most recent article (May 1989) did not come to my attention until after the thesis was written. I have nonetheless included it here for the sake of completeness.

1974.c "The Independence of Moral Theory" [Presidential Address to the American Philosophical Association, Eastern Division, 1974], Proceedings and Addresses of the American Philosophical Association 48 (1974/75), pp. 5-22.

1974.b "Reply to Alexander and Musgrave", The Quarterly Journal of Economics 88, pp. 633-655.

1974.a "Some Reasons for the Maximin Criterion", The American Economic Review 64, pp. 141-146.

1973 "Distributive Justice", in Economic Justice, Edmund S. Phelps ed., London: Penguin Books, pp. 319-362.

1972 "Reply to Lyons and Tietelman", The Journal of Philosophy 69, pp. 556-557.

1971.b A Theory of Justice, Cambridge, Mass.: The Belknap Press of Harvard University Press.

1971.a "Justice as Reciprocity", in Utilitarianism: John Stuart Mill: With Critical Essays, Samuel Gorovitz ed., New York: Bobbs-Merrill Co., pp. 242-268.

1969 "The Justification of Civil Disobedience", in Civil Disobedience: Theory and Practice, Hugo A. Bedau ed., New York: Pegasus Books, pp. 240-255.

1968 "Distributive Justice: Some Addenda", Natural Law Forum 13, pp. 51-71.

1967 "Distributive Justice", in Philosophy, Politics and Society, Third Series, Peter Laslett & W.G. Runciman eds., London: Basil Blackwell, Ltd., pp. 58-82.

1965 Review of Social Justice (Richard B. Brandt ed., 1962), in The Philosophical Review 74, pp. 406-409.

1964 "Legal Obligation and the Duty of Fair Play", in Law and Philosophy, Sidney Hook ed., New York: New York University Press, pp. 3-18.

1963.b "Constitutional Liberty and the Concept of Justice", in Justice: Nomos VI, Carl J. Friedrich & John W. Chapman eds., New York: Atherton Press [reissued in 1974], pp.98-125.

1963.a "The Sense of Justice", The Philosophical Review 72, pp. 281-305.

1958 "Justice as Fairness", The Philosophical Review 67, pp. 164-194.

1957 "Justice as Fairness", The Journal of Philosophy 54, pp. 653-662.

1955 "Two Concepts of Rules", The Philosophical Review 64, pp. 3-32.

1951.b Review of An Examination of the Place of Reason in Ethics (Steven Toulmin, 1950), in The Philosophical Review 60, pp. 572-580.

1951.a "Outline of a Decision Procedure for Ethics", The Philosophical Review 60, pp. 177-197.

Secondary Materials Endnoted:

Adelman, Howard, "Refuge or Asylum: A Philosophical Perspective", Journal of Refugee Studies 1 no. 1 (1988), pp. 7-19.

Amdur, Robert, "Rawls' Theory of Justice: Domestic and International Perspectives", World Politics 29 (1977), pp. 438-461.

Arneson, Richard J., "Introduction" [Symposium on Rawlsian Theory of Justice: Recent Developments], Ethics 99 no. 4 (July 1989), pp. 695-710.

Barry, Brian, Theories of Justice (vol. 1), Berkeley: University of California Press, 1989.

-- "Critical Notice of Wolff, Understanding Rawls", The Canadian Journal of Philosophy 8 (1978), pp. 753-783.

-- The Liberal Theory of Justice, Oxford: Clarendon Press, 1973.

-- "On Social Justice", Oxford Review 5 (1967), pp. 29-52.

Beitz, Charles, Political Theory and International Relations, Princeton: Princeton University Press, 1979.

-- "Justice and International Relations", Philosophy and Public Affairs 4 (1975), pp. 360-389.

Carens, Joseph H., "Who Belongs? Theoretical and Legal Questions about Birthright Citizenship in the United States", University of Toronto Law Journal 37 (1987), pp. 413-443.

Charvet, John, "The Idea of Equality as a Substantive Principle of Society", Political Studies XVII, no. 1, pp. 1-13.

Daniels, Norman, "Reflective Equilibrium and Archimedian Points", Canadian Journal of Philosophy 19 (1980), pp. 83-103.

-- "On Some Methods of Ethics and Linguistics", Philosophical Studies 37 (1980), pp. 21-36.

-- "Wide Reflective Equilibrium and Theory Acceptance in Ethics", Journal of Philosophy 76 (1979), pp. 256-282.

Danielson, Peter, "Theories, Intuitions and the Problem of World-wide Distributive Justice", Philosophy of the Social Sciences 3 (1973), pp. 331-338.

Doppelt, Gerald, "Rawls' Kantian Ideal and the Viability of Modern Liberalism", Inquiry 31 (Dec. 1988), pp. 413-449.

Dworkin, Ronald, Taking Rights Seriously, 2nd ed., Cambridge: Harvard University Press, 1978, c.1977.

Feyerabend, Paul, Science in a Free Society, London: Verso, 1982.

Fox, Matthew, Religion USA: An Enquiry into Religion and Culture by way of Time Magazine, Dubuque, Iowa: Listening Press, 1971.

Francis, Leslie P., "Responses to Rawls from the Left", in John Rawls' Theory of Social Justice, H.G. Blocker & E.H. Smith eds., Athens, Ohio: Ohio University Press, 1980, pp. 463-493.

Gorbachev, Michael, Perestroika: New Thinking for Our Country and the World, New York: Harper & Row, 1987.

Grant, George, English Speaking Justice, Sackville, New Brunswick: Mount Allison University Press, 1974.

Hare, R.M., "Rawls' Theory of Justice" [I & II], Philosophical Quarterly 23 (1973), pp. 144-155 & 241-252.

Harrel-Bond, B.E., Imposing Aid: Emergency Assistance to Refugees, New York: Oxford University Press, 1986.

Kavka, Gregory, Hobbesian Moral and Political Theory, Princeton: Princeton University Press, 1986.

Kennedy, Paul, The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000, New York: Random House, 1987.

Kropotkin, Petr, Mutual Aid: A Factor of Evolution, Boston: Porter Sargent Publishing, Inc., [no publication date given].

Kymlicka, Will, The Value of Cultural Membership, Oxford: Oxford University Press, 1989.

Marcuse, Herbert, "Repressive Tolerance", in R.P. Wolff et.al., A Critique of Pure Tolerance, Boston: Beacon Press, 1969, pp. 81-

123.

Mardiros, Anthony, "A Circular Procedure in Ethics", Philosophical Review 61 (1952), pp. 223-225.

Miller, David, "The Ethical Significance of Nationality", Ethics 98 no. 4 (July 1988), pp. 647-662.

Nathan, N.M.L., The Concept of Justice, London: Macmillan Press Ltd., 1971.

Nozick, Robert, Anarchy, State, and Utopia, New York: Basic Books, 1974.

Pogge, Thomas, "Rawls and Global Justice", The Canadian Journal of Philosophy 18 no.2 (June 1988), pp. 227-256.

Rorty, Richard, "Method, Social Science and Social Hope", in Interpreting Politics, Michael T. Gibbons ed., Oxford: Basil Blackwell, 1987, pp. 241-259.

Runciman, W.G., Relative Deprivation and Social Justice, Berkeley: University of California PRess, 1966.

Sandel, Michael J., Liberalism and the Limits of Justice, New York: Cambridge University Press, 1982.

Schuck, Peter H. and Roger M. Smith, Citizenship without Consent: Illegal Aliens in the American Polity, New Haven: Yale University Press, 1985.

Unger, Roberto M., Politics, A Work in Constructive Social Theory (Part One, three volumes), New York: Cambridge University Press, 1987.

Walzer, Michael, Spheres of Justice, Oxford: Martin Robertson, 1983.

Weigel, Van B., A Unified Theory of Global Development, New York: Praeger, 1989.

Westbrook J.H., Denis Snook & David T. Mason eds., John Rawls and His Critics: An Annotated Bibliography, New York: Garland Publishing, Inc., 1982.

Wolff, Robert Paul, Understanding Rawls, Princeton: Princeton University Press, 1977.

-- "A Refutation of Rawls's Theorem on Justice", Journal of Philosophy LXII (1966), pp. 179-190.

Zolberg, Aristide R., Astri Suhrke and Sergio Aguayo, Escape from Violence: Conflict and the Refugee Crisis in the Developing World, New York: Oxford University Press, 1989.